

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**September 30, 1999**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, September 30, 1999 at 1:30 p.m., in the Planning Department Conference Room, 10th Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Frank Garofalo, Chair; James Barfield; Chris Carraher; Bud Hentzen; Bill Johnson; Richard Lopez; Ron Marnell (late arrival); John W. McKay, Jr.; Jerry Michaelis; Susan Osborne-Howes (late arrival); George Platt; Harold Warner; Ray Warren; and Deanna Wheeler (late arrival). Staff members present were: Marvin S. Krout, Secretary; Dale Miller, Assistant Secretary; Keith Gooch, Senior Planner, Donna Goltry, Principal Planner, Lisa Verts, Associate Planner, and Karen Wolf, Recording Secretary.

**1. Approval of minutes for July 15, 1999 and special meeting of July 22, 1999**

**MOTION:** That the Planning Commission approve the minutes of July 15 and July 22, 1999 as submitted.

**CARRAHER** moved, **WARREN** seconded the motion, and it carried unanimously (10-0).

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**GAROFALO** "Before we go to the Subdivision Committee recommendations, I want to give you the appointments on the two standing committees. On the Subdivision Committee will be Commissioner Warren, Commissioner McKay, Commissioner Michaelis, Commissioner Barfield, Commissioner Platt, and Commissioner Lopez.

On the Advance Plans Committee, Commissioner Johnson, Commissioner Marnell, Commissioner Carraher, Commissioner Warner, Commissioner Wheeler, Commissioner Hentzen, Commissioner Osborne-Howes and myself.

And one other thing. Each Committee is to appoint their own chairman. You should do that at the first meeting. I am appointed to the Tri-County Planning Forum, which meets quarterly. Are there any questions on that?

Another early announcement. We had an item that was withdrawn, dealing with a Conditional Use permit. The self-storage at Bunker Hill and 31<sup>st</sup> Street South. It was advertised to be heard no sooner than 3:30 p.m.

**KROUT** "That item was not numbered, but someone may have received the first notice announcing the hearing and didn't get the second notice canceling it. So we will announce it now and again at 3:30 that that case, CU-542 has been withdrawn."

2. Subdivision Committee items 2/1 and 2/2, we can take in one motion. Is there anyone from the public that wants to speak on subdivision items 2/1 or 2/2?"

**2/1. S/D 99-41 - Final Plat of SMITHMOOR COMMERCIAL ADDITION, located on the southwest corner of Harry and Greenwich Road.**

- A. The applicant shall guarantee the extension of sanitary sewer to serve the lots being platted. This guarantee shall be with the County for service through the Four-Mile Creek sanitary sewer system. On the final plat tracing, appropriate wording shall be added to the Mayor's signature block indicating the City's agreement to allow a County sewer district to be formed within the City.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. An off-site drainage agreement is required. A drainage guarantee is required.
- D. Traffic Engineering needs to comment on the access controls. The access controls coincide with those proposed for the CUP. The plat denotes two access openings along Greenwich and three access openings along Harry. Distances shall be shown for all segments of access control. The proposed joint access openings need to be established by separate instrument .
- E. The wall easement shall be referenced in the plat's text.
- F. The applicant shall submit a copy of the instrument which establishes the pipeline easements on the property, which verifies that the easements shown are sufficient and that utilities may be located adjacent to and within the easements.
- G. The setback from the pipeline easement shall be indicated as a building setback line for the Williams Pipeline.
- H. The bearings for the tapered right-of-way within Lot 7 need to be included on the final tracing.

- I. The final plat shall reference a tie point to a section corner.
- J. Traffic Engineering has required right turn lanes for the access points on Harry and Greenwich, left turn lanes for all major access openings on Harry and Greenwich, and 12.5% of the signalization cost at the Harry and Greenwich intersections.
- K. Traffic Engineering needs to comment on the need for additional right-of-way along Harry. No additional right-of-way is needed.
- L. A CUP Certificate shall be submitted identifying the approved CUP and its special conditions for development on the property.
- M. The signature line for the MAPC Chairman should reference William M. Johnson.
- N. The platlor's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- V. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.

**WARREN** "Before we have a motion, I would like to speak a little bit on item No. 2/1, which is the CUP on the Smithmoor Commercial Addition, is that all right? I don't know how many of you got the full CUP, but we are adding a lot of restrictions here, of course, that are in addition to and not in our base-line zoning. Where we get this authority, I am not real sure. Maybe it is tradition, maybe it is policy, but is the applicant or agent for this one here? Okay, neither one of them are.

Again, I am going to point out my concern because we don't have a policy on it as yet. My concern is about the legality of this 12-1/2 % of the traffic signalization. I have a strong concern about that. Until such time that we either get a policy and approve that policy, and until such time as we look at whether or not this is a legal thing that we can do, I just want to go on record that I am opposed to this 12-1/2 % of street signalization."

**GAROFALO** "Okay, we have that for the record."

Osborne-Howes arrived at 1:40 p.m.

**2/2. S/D 96-39** - Revised Final Plat of POWER CDC ADDITION, located west of Grove, south of 21<sup>st</sup> Street South.

- A. City Engineering needs to comment on the existing guarantees for the extension of sanitary sewer and City water and any requirements for providing new guarantees. A guarantee for the extension of sanitary sewer is required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.

- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- E. The lot numbers should be revised to include consecutively numbered adjoining lots.
- F. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE requests additional easements.
- O. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.

**MOTION:** That the Planning Commission recommend to the governing body that the requests be approved.

**MCKAY** moved, **PLATT** seconded the motion, and it carried unanimously (11-0).

**GAROFALO** "Items 2/3 through 2/6 are public hearing items."

**LISA VERTS**, Planning staff, "As far as I know, none of these vacation cases need to be pulled out separately. They could all go together."

**GAROFALO** "Do we have anyone in the audience who wants to speak on these vacation items 2/3 through 2/6? No one? Okay, we can take them in one motion."

**MOTION:** That the Planning Commission recommend to the governing body that the requests be approved.

**JOHNSON** moved, **LOPEZ** seconded the motion, and it carried unanimously (12-0).

**2/3.** V-2194- Tramco, Inc., c/o Leon Trammell, request to vacate street right-of-way, described as:

Beginning at the northeast corner of 19<sup>th</sup> Street North and Wabash Ave., said point also being the southwest corner of Lot 14, Harvey's Add. to Wichita; thence north along the east line of Wabash Ave. to the northwest corner of Lot 34, Meekin's Add. to Wichita; thence west along the extended north line of said Lot 34, 30 feet to the center line of Wabash Ave.; thence north along the center line of Wabash Ave. 28 feet more-or-less; thence northwesterly to a point on the west line of Wabash Ave., 35 feet south of the northeast corner of Lot 7, Harvey's Add. to Wichita; thence south along the west line of Wabash Ave. to the north line of 19<sup>th</sup> Street North; thence east 60 feet to the point of beginning. Generally located on 19<sup>th</sup> Street North and Wabash.

The applicant is requesting to vacate Wabash Avenue north of 19<sup>th</sup> Street North, an unimproved road. The applicant owns the property on both sides of Wabash and is desirous of the vacation for future expansion of Tramco, Inc. and for better security of his property.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time August 24, 1999, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described drainage easement, and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the street right-of-way as described in the petition should be approved, subject to the following condition:

The applicant shall join those lots with a covenant that would be without access if this street were vacated. Lots to be joined are: 1) Odd Lots 1-9, inclusive, Block 1, Marquis Addition to Wichita, and 2) Even Lots 12-34, inclusive, Meekin's Addition with Lot 14, Harvey's Addition to Wichita, Sedgwick County, Kansas.

The Subdivision Committee recommends approval, subject to the following condition:

The applicant shall join those lots with a covenant that would be without access if this street were vacated. Lots to be joined are: 1) Odd Lots 1-9, inclusive, Block 1, Marquis Addition to Wichita, and 2) Even Lots 12-34, inclusive, Meekin's Addition with Lot 14, Harvey's Addition to Wichita, Sedgwick County, Kansas.

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- 2/4. V-2195** – Kevin L. and Tamara J. Keen request the vacation of a partial access control, described as:

Lot 1, block A. Quail creek Estates Addition, Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of 47<sup>th</sup> Street South and Greenwich Road.

The applicant is requesting to vacate access control along the south side of 47<sup>th</sup> Street South and west of Greenwich Road. The point of access along the west boundary of the property has been developed as a private driveway for another property owner and access is needed to this corner lot.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time September 7, 1999, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described drainage easement, and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner(s), the prayer of the petition ought to be granted.
- C. Therefore, the vacation of partial access control as described in the petition should be approved, subject to the following condition:

The County shall retain access control along the eastern most 300 feet of property frontage (measured from the centerline of Greenwich Rd) and the western most 200 feet of property frontage along 47<sup>th</sup> Street South.

The Subdivision Committee recommends approval, subject to the following condition:

The County shall retain access control along the eastern most 300 feet of property frontage (measured from the centerline of Greenwich Rd) and the western most 200 feet of property frontage along 47<sup>th</sup> Street South.

- 2/5.      V-2196** – BG Products, c/o Galen Myers; Riverfront Properties, c/o Fran Jabara; Fred Goodwin; Eddie Hamilton; Janice Boggess; Dhon Hauserman; Ralph Conner; City of Wichita, c/o Allen Eichacker request the vacation of an alley right-of-way described as:

10-foot platted alley right-of-way north of Orme Street in Feccheimer's Addition, Wichita Sedgwick County, Kansas. Generally located north of Orme Street, between Wichita and Water Streets.

The applicants are requesting to vacate the alley right-of-way primarily for the development of parking lots for BG Products on Lots 2, 20 and 22 of Feccheimer's Addition and Lot 1 of Davis Moore 4<sup>th</sup> Addition and in association with CU-535 A and B.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A.      That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1.      That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time September 7, 1999, which was at least 20 days prior to this public hearing.
  2.      That no private rights will be injured or endangered by the vacation of the above-described drainage easement, and the public will suffer no loss or inconvenience thereby.
  3.      In justice to the petitioner(s), the prayer of the petition ought to be granted.
- D.      Therefore, the vacation alley right-of-way as described in the petition should be approved, subject to the following conditions:
1.      The City of Wichita shall retain the alley as utility easement.
  2.      BG Products shall dedicate an additional 10 feet of utility easement along the west boundary of the vacated alley on odd Lots 11-21 inclusive, Feccheimer Addition to Wichita, Sedgwick County, Kansas.

The Subdivision Committee recommends approval, subject to the following conditions:

1.      The City of Wichita shall retain the alley as utility easement.
2.      BG Products shall dedicate an additional 10 feet of utility easement along the west boundary of the vacated alley on odd Lots 11-21 inclusive, Feccheimer Addition to Wichita, Sedgwick County, Kansas.

- 2/6.      V-2197** – Larry and Jeanine McKee request the vacation of a portion of a utility easement, described as:

The west 10 feet of the east 20 feet of Lot 23, Block 3, Northridge Lakes Addition to Wichita, Sedgwick County, Kansas.

The applicant is requesting to vacate the west 10 feet of the 20-foot utility easement along the east property line. The applicant wishes to build part of his home and a retaining wall into the existing easement.

Based upon the information available prior to the public hearing, staff recommends the MAPC make the following findings and recommendation to the City Council:

- A.      That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
4.      That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time September 7, 1999, which was at least 20 days prior to this public hearing.
  5.      That no private rights will be injured or endangered by the vacation of the above-described drainage easement, and the public will suffer no loss or inconvenience thereby.
  6.      In justice to the petitioner(s), the prayer of the petition ought to be granted.

E. Therefore, the vacation of a portion of a utility easement as described in the petition should be approved.

The Subdivision Committee recommends approval.

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**FRANK GAROFALO**, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

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3. **Case No. CU-541** – Mansel R. and Shirley Jones (owner/applicant) request Conditional Use to allow an accessory apartment at the rear of the lot on property described as:

Lots 25 & 27, on Estelle, Dixon's Addition to Wichita, Kansas, Sedgwick County, Kansas. Generally located north of Orme Street and west of Estelle Avenue (547 S. Estelle).

**LISA VERTS**, Planning Staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use to allow an accessory apartment on residential property zoned "TF-3" Two-Family Residential. The property consists of two lots in the Dixon's Addition to Wichita, totaling 6,500 square feet. Currently there is a garage at the rear of the lot, which will be removed, this being the approximate location of the new accessory apartment.

Through a divorce agreement, the owner, Mr. Jones, is required to care and provide for his ex-wife, who currently lives in the existing home. The applicant wishes to move into the home and build an apartment for his ex-wife where the existing garage stands.

The site is bordered on all sides by property that is zoned "TF-3" Two-Family Residential, but is used for single-family homes. Wichita's original zoning code did not contain a zoning district reserved exclusively for single-family residences, so many of the older residential area have "two-family" zoning, even though they were developed predominately with single-family homes. All the homes in the area are a mix of two- and one-story homes and appear to have been constructed at the same time, probably between 1918 and 1926.

The applicant has provided a site plan for the development of the accessory apartment. As stated earlier, the new apartment will be developed on the location that is currently occupied by a garage. The new structure will be 24 feet by 24 feet and situated 6 feet off the side property line and 8 feet off the rear property line.

As per the Unified Zoning code, the Conditional Use requirements for accessory apartments stipulate:

- (a) that a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling;
- (b) that the appearance of an accessory apartment shall be compatible with the main dwelling and with the character of the neighborhood; and
- (c) that the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling, including that it shall not be subdivided or sold as a condominium.

**CASE HISTORY:** The subject property is in Dixon's Addition, which was platted February 15, 1918.

**ADJACENT ZONING AND LAND USE:**

NORTH: "TF-3" – Single-Family Home  
SOUTH: "TF-3" – Single-Family Home  
EAST: "TF-3" – Single-Family Home  
WEST: "TF-3" – Single-Family Home

**PUBLIC SERVICES:** Public services are available to this site. Estelle Avenue is a residential street with 50 feet of right-of-way and 29 feet of paving. Parking is allowed on both sides of the street.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use map of the Comprehensive Plan identifies this site as being appropriate for low density residential uses. By definition, low density residential has a density range of 1 to 6 units per acre, and includes single-family detached homes, zero lot line units and cluster subdivisions. Since a subdivision of single-family homes cannot be developed at more than 4 to 5 units per acre including the streets, it was contemplated that some higher density units would be included in these areas. The "Area Treatment Classification" of the Comprehensive Plan identifies this area as a "Revitalization" area. These areas, which are experiencing some decline but have good market and development opportunities, would be stabilized by policies that include improvement of community services, encouragement of well designed infill housing, encouragement of housing improvements and rehabilitation, and incentives to emphasize innovative housing types and mixed use development.

**RECOMMENDATION:** Based on information available prior to public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
2. The building walls and the roof of the new structure shall be similar in appearance (texture and color) to the existing dwelling, and the structure must be limited to one story.
3. The owner of the property must reside on-site, either in the main home or the accessory apartment.
4. Paved off-street parking shall be provided for at least three non-tandem spaces, behind the front line of the existing residence. A new site plan shall be submitted showing the location of said parking.

**VERTS** "Condition No. 4 as stated in your staff report, I would like to change the wording on. It says "paved off-street parking shall be provided for at least three non-tandem spaces behind the front line of the existing residence, and a new site plan shall be submitted, showing the location of said parking". I would like to revise that to state 'parking shall be provided for at least three spaces, two of which shall be non-tandem'.

5. The site shall be developed in general conformance with the approved site plan.
6. Any violation of these conditions shall render this Conditional Use permit null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding zoning is "TF-3" Two-Family Residential, although most of the properties are developed with single-family homes. The medium-density residential category includes semi-attached dwelling units such as duplexes and townhomes. There is at least one other accessory apartment in the immediate neighborhood, the remainder being single-family homes.
2. Suitability of the subject property for the uses to which it has already been restricted: The code permits an accessory apartment provided the applicant and the site meet the specified criteria. The applicant and the site appear to meet those criteria with the provision of parking for the accessory apartment.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affect should be minimized with the condition that the property owner shall be required to reside on the premises. The apartment will be placed at the rear of the lot, so as not to be immediately visible from the surrounding properties.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The zoning code anticipated this type of use and makes specific provision for it. The site appears to comply with all the provisions outlined in the code for an accessory apartment. Approval of this request will not be contrary to any Comprehensive Plan policies or guidelines.
5. Impact of the proposed development on community facilities: None Identified.

**VERTS** "CPO Council 1 voted 7-0 to recommend approval, subject to MAPD staff comments. I will answer any questions you have regarding this case."

**GAROFALO** "I have one question here. On Item No. 4, why is that necessary?"

**VERTS** "Potentially, the accessory apartment could be rented to somebody not associated with the person living in the front house, and parking access would have to be given to that person living in that accessory apartment. Rather than having a drive-way with three cars stacked up, we are just requiring that extra parking accessibility."

**LOPEZ** "Will you read the re-wording of Item No.4 again?"

**VERTS** "Re-wording for Item No. 4 is, 'paved off-street parking shall be provided for at least three spaces, two of which shall be non-tandem, behind the front line of the existing residence. A new site plan shall be submitted, showing the location of said parking."

**MICHAELIS** "So there still is an access off of the front street through the drive-way?"

**VERTS** "Correct."

**MICHAELIS** "So, what if cars are parked in that drive-way. How are they going to get past there?"

**VERTS** "The drive-way should be wide enough that they can park next to each other or drive past one to get back to the other. I can go back to the site plan and show you better what I mean. This space here is an existing unpaved driveway. There is enough room here for two cars side by side, or enough room to drive past a car parked on either side of the driveway. So essentially, this area would be paved for parking."

**HENTZEN** "My question goes to the point that they already have two-family zoning on this lot. Why is it before us? They don't have to change the zoning, and they are not changing the use that it is already zoned for. Why are they here?"

**KROUT** "A duplex is a building with two units in it. They are wanting to build a second detached unit. It is not permitted in duplex zoning."

**HENTZEN** "This isn't a duplex district, it is a two-family zoning. It's 'TF-3', isn't that two-family?"

**KROUT** "Right, but the two-family allows a single-family home or a duplex, which is one building with two units in it, or if you apply for a Conditional Use, you can do a three-plex or a four-plex. But what they are asking to do is to have two buildings, each one with a dwelling unit in it. Even in the duplex district, that requires a Conditional Use. It is not, even though it is two units, it would have to be two units in one building to be a duplex. That is the long-standing definition of a duplex in a duplex district. In the duplex district, you can't build two separate buildings with one unit in each."

**HENTZEN** "I have another question, Mr. Chair. On requirement No. 3 it says 'the owner of the property must reside on site, either in the main home or the accessory apartment'. Suppose they get this built and the lady in the front house and the gentleman in the other house happened to be killed or something. Do we have to tear that unit down, or find somebody else in the same similar situation? I don't think the requirement is necessary, is what I am saying. You don't put that requirement on a duplex or a three-plex."

**KROUT** "That is right, and if you decide that you think it is not necessary, you could remove it. It is our feeling, though that this is basically a single-family neighborhood in character, and we have seen, generally, when you have duplex building or a multi-family, and you have an owner who is also occupying one of those units, maintenance in that neighborhood, is likely to be better. So we do strongly recommend to you that it will make a more stable neighborhood for one of the occupants of these two units to be the owner of the building and have a stake in it and to be living there on the site and be responsible for maintenance."

**GAROFALO** "Marvin, this wouldn't refer just to the current owner, would it? No, it would be any owner. If all the occupants of those two units died, then whoever would own this would have to be the occupant of one of those units. It would have to be one owner occupant and one tenant in those two units."

**MICHAELIS** "So it is not the current owner."

**KROUT** "Not just the current owner, and if that needs to be clarified, we can clarify it. We can't tie into a particular owner, it has to go with the land. But the condition can say that one of the units has to be occupied by the owner of the property. That is what our recommendation is."

**HENTZEN** "There are other units in that area that have two dwellings on it, but we have not required, anywhere along the line that the owners of the property have to live in it. Couldn't the owners of this property, if they decided to sell it, would everybody be eliminated that didn't want to live there? How about somebody buying it for a rental?"

**KROUT** "That is a possibility, but we are saying that we are increasing the density, we are increasing the number of cars that are potentially on this site and it is still basically a single-family neighborhood. The biggest problem we have in older neighborhoods is with rental housing that are absentee-owned, and so we think that this would be a better assurance that this property will be maintained over the years. That is our recommendation. You can choose to ignore it."

**OSBORNE-HOWES** "Are the rest of the homes on this block single-family?"

**VERTS** "Yes, there is one house, I believe about three houses north, that has an accessory apartment associated with the garage. I don't know what the situation is there, who is living in it, but for the most part, everything in this neighborhood is single-family."



**OSBORNE-HOWES** "Is that apartment you are describing in the two-family district, and is that like non-conforming?"

**VERTS** "Everything is in the two-family district. I don't know if there was a Conditional Use gotten for that home. It is at least four houses north of the application."

**GAROFALO** "Is there any other questions at this point? Then we will hear from the applicant or agent."

**SHIRLEY JONES** "I live at 1524 East Selma. I would like to say that the lady who is currently living in the house is my husband's ex-wife, and he is responsible for the upkeep of the property. We take her to the grocery store, to the doctor, and everything. She is becoming infirm. She has had some blackouts and has fallen down the stairs into the basement. She needs to be someplace where she can be watched over.

This was our solution that we would build a small house for her on the back of the property and we would live in the larger house in the front so that we could continue to do this. We live, as I said, in another area right now. We would have to sell our house on half an acre and move into the City. We decided we were willing to do that.

I don't know how else to explain it, that is just all there is to it. We just feel like this would be the easiest thing for us to do and be able to maintain everything the way it is supposed to be."

**OSBORNE-HOWES** "Do you agree with the four conditions that the staff has laid out?"

**JONES** "I think some of them are a little strange, but we don't have any real objections to anything. We are willing to do whatever is necessary."

**GAROFALO** "Are there any other questions? Thank you. Is there anyone else to speak in favor of this item? Is there anyone to speak in opposition?"

**KATHY RATLIFF** "I live at 543 South Estelle, just north of this home we are speaking of. I oppose this. I do not want a rental property next to my home. I know, as you stated, there are conditions that the owner of the property does have to live in one of the homes, which is nice. That does help, but the apartment will still be a rental property when these people are no longer around. That, I believe, will bring down the value of my home.

The Mrs. Jones who lives next door to me seems to maintain her yard very well. She is out there every day. I know that she does have some health problems, but she seems to be okay. I talk to her all of the time. She lets me know how she is feeling and everything. I do know he takes her to the store, and I know that she has had one blackout, which was just a week or so ago. I don't know for sure how long it was.

On a personal thing, I can't see her being put in the back yard with a privacy fence around her, and not being able to have any visiting with the neighbors next door and that type of thing, which she has done for years. I don't think she should be moved to a little house in the back. I do oppose that. That's it."

**MCKAY** "Ma'am, do you have any idea if there is any other rental property in the neighborhood?"

**RATLIFF** "There is, across the street, I think. It would be like two houses from my house, across the street, north of my house. It is a big Victorian-style home, and I think it is like one home made into a duplex-type apartment. I think there is only one person living there. I know at one time that they had done the same thing and they wanted to make it into a four-plex, and it was denied. It is a real quiet neighborhood. It is really nice. We have a lot of kids in the neighborhood and we don't have a problem with the rental type situation.

There is a rental property behind my house that is just a mess. It is not maintained, it isn't taken care of. There was a fire there and the owners of this home have not cleaned up the fire mess yet. I just don't want this to ever happen next door to me. With a privacy fence put around this home, and nobody being able to see the back of the house, is there a possibility that there could be garbage collected in this back yard if the people that live here now are no longer there and somebody else owns it."

**GAROFALO** "Are there any other questions? Do you understand that one of the conditions is that the owner must reside there?"

**RATLIFF** "Yes, I do."

**GAROFALO** "Marvin, if the owner doesn't live there, the Conditional Use would be null and void?"

**KROUT** "Right. Then they would only be able to use one house."

**GAROFALO** "Okay. Did you hear that?"

**RATLIFF** "Yes. The owner of the home does have to live there but they can rent the property out to another individual. I do agree with that condition if it does have to become a rental property. Because if the owner is there they can maintain it and such, what type of owner could come into this home? We never know."

**OSBORNE-HOWES** "I just want to check, did I miss the condition that required a privacy fence? She mentioned a privacy fence."

**RATLIFF** "I just know that they are going to put a privacy fence up."

**GAROFALO** "We wouldn't have any control over that. Thank you. Is there anyone else who would like to speak in opposition to this application?"

**SUZANNE MYERS** "I live at 542 South Estelle. I just don't want to see the harmony of the neighborhood disrupted. We have a nice neighborhood and we don't want to see it changed."

**GAROFALO** "Are there any questions of Ms. Myers? Okay, thank you. Is there anyone else who would like to speak in opposition to this application? Seeing no one, the applicant has two minutes for rebuttal."

**JONES** "There are just a couple of points I would like to bring up. No. 1, my husband and I are the owners of that property, not the older Mrs. Jones. And another thing, I understand that there is a house down the street where somebody lives upstairs in another apartment. There is rental property already in the neighborhood. And, we do not have any plans for that to be rental property as Mrs. Jones is alive."

**GAROFALO** "Are there any questions? Thank you. Okay, we will bring this back to the Commission."

**WARREN** "You know, we are kind of drawing straws here, because we are looking at a land issue where the zoning is already in place. I respectfully submit that what Marvin is saying is probably right, a duplex is attached. However, they could put a breezeway between these two and it would be attached. Then it wouldn't be before us at all. As long as those units are attached, they are a duplex. So, I would kind of say that we are kind of drawing straws on the technicality of that zoning."

**MICHAELIS** "The only thing that really kind of bothers me about this is the additional drive-way and parking requirements, because I think what we are doing is making it conducive to future use where there will be more activity, if it does become two rental properties. Then we could have five cars there instead of two cars. And I guess one thing, and maybe the applicant can answer this, but I guess the economics of this doesn't seem to make a lot of sense."

If you are going to tear down a garage and build a new house, wouldn't it be easier to just build a new house on the half acre lot where you are now?"

**JONES** (From the audience) "It is single-family dwelling zoning where we are now."

**GAROFALO** "Commissioner, did you want her to respond to that?"

**MICHAELIS** "Yeah."

**GAROFALO** "Would you please come back up to the podium, ma'am?"

**MICHAELIS** "I would just like to know...to me, it would seem to make more sense if you live on a half-acre lot now, that the economics of this would be more feasible to build an accessory structure there or add on to your existing house. This sounds like a temporary thing, and it sounds like this lady is not going to be here too much longer. So, it seems like you are going to a lot of expense to take this piece of property now and convert it, where it would make more sense to do it where you currently live. Then it would benefit you afterwards."

**JONES** "The half acre is too much for us. We need something smaller. We are getting older and it would just be more feasible for us to be on a smaller piece of property so that when we are not able to mow as much lawn, we wouldn't have to. Right now, we are able to, but we don't know how long that is going to last."

**OSBORNE-HOWES** "I was just wondering, we have had a couple of people who talked about whether or not we really need to look at owner-occupied, and when I was looking through this conformance to plans, it talks about that the Comprehensive Plan identifies that as a revitalization area."

I know that we have a lot of new members on the Commission, and in the past, we have taken a special look at some of those areas to kind of keep their values up. We have put some additional conditions on them. Can you speak to that?"

Wheeler arrived at the meeting at 2 p.m.

**KROUT** "Right. The revitalization areas are these neighborhoods that we think are basically healthy, but they are seeing some decline from increasing rental ownership. It is clear that the Plan says that we should pay the most attention, be the most careful about, in terms of it not being something that is going to destabilize the neighborhood."

You have to remember that this duplex zoning is really the old zoning that was initially placed on properties that weren't single-family zoned. It was just never taken off of this area. That original duplex zoning did not allow duplex on every lot. It only allowed duplexes on up to half of the lots on any lot space. So, it was always intended to be a single-family with some duplexes, and you can see the pattern. For instance, in College Hill, where some of the duplex zoning was left and there is a sprinkling of single-family and duplexes there, but it is basically a single-family neighborhood. I think that this is similar in that land use character."

The Planning Commission has talked about what it takes, and some of you have attended the community meetings where we hear that home ownership and encouraging home ownership is really important. But on the other hand, we see that there is a need from time to time to provide some extra housing. Some of these neighborhoods which used to have more large families, can now, except for maybe an accessory unit here and there, on a case-by-case basis. I was going to suggest to the homeowners' who were here that they should visit with our office later about seeing about turning in a petition to request that this neighborhood or parts of it, be rezoned down to the single-family zoning district, which would give you the protection.

What you are hearing from the Planning Commission is 'well, it is already zoned duplex, so that means anyone can do a duplex and so what is the difference between a duplex and what they are asking for here'? I think we have this problem all over in older parts of the city where we have neighborhoods that are over-zoned, and because of that, someone comes in and you say 'well, they could do this or that'. That is technically true. But we ought to be remedying that, and the Comprehensive Plan says we ought to be remedying that."

**GAROFALO** "Is there any other discussion?"

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The surrounding zoning is "TF-3" Two-Family Residential, although most of the properties are developed with single-family homes. The medium-density residential category includes semi-attached dwelling units such as duplexes and townhomes. There is at least one other accessory apartment in the immediate neighborhood, the remainder being single-family homes. Suitability of the subject property for the uses to which it has already been restricted: The code permits an accessory apartment provided the applicant and the site meet the specified criteria. The applicant and the site appear to meet those criteria with the provision of parking for the accessory apartment. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affect should be minimized with the condition that the property owner shall be required to reside on the premises. The apartment will be placed at the rear of the lot, so as not to be immediately visible from the surrounding properties. Conformance of the requested change to adopted or recognized Plans/Policies: The zoning code anticipated this type of use and makes specific provision for it. The site appears to comply with all the provisions outlined in the code for an accessory apartment. Approval of this request will not be contrary to any Comprehensive Plan policies or guidelines. Impact of the proposed development on community facilities: None Identified.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The applicant shall obtain all applicable permits, including but not limited to: building, health, and zoning.
2. The building walls and the roof of the new structure shall be similar in appearance (texture and color) to the existing dwelling, and the structure must be limited to one story.
3. The owner of the property must reside on-site, either in the main home or the accessory apartment.
4. Paved off-street parking shall be provided for at least three spaces, two of which shall be non-tandem, behind the front line of the existing residence. A new site plan shall be submitted showing the location of said parking.
5. The site shall be developed in general conformance with the approved site plan.
6. Any violation of these conditions shall render this Conditional Use permit null and void.

**LOPEZ** moved, **OSBORNE-HOWES** seconded the motion.

**HENTZEN** "Mr. Chair, would it be in order for a substitute motion at this point?"

**GAROFALO** "At any time."

**SUBSTITUTE MOTION:** That the Planning Commission recommend to the governing body that the request be approved with the elimination of Condition No. 3 and accept the wording on Condition No. 4.

**HENTZEN** moved, **WARREN** seconded the motion.

**OSBORNE-HOWES** "Can I speak to that just a little bit? When I first looked at this, and I always kind of look back and forth whether this is appropriate. I guess I just feel that over time I know that we have listened to some applications from College Hill or Sleepy Hollow, I can't remember exactly where, but in the City's identified Core area, and we are working so hard here as we develop our Comprehensive Plan to take care of these neighborhoods and encourage single-family housing, then to get an application like this that really is asking for a Conditional Use permit, something that is unique or different, some special excuse, I think we ought to do as much as we can to keep the integrity of the single-family. So I will be voting against the substitute motion.

**MICHAELIS** "Can I ask for a clarification? The Conditional Use stays with the property, so it would be there forever?"

**KROUT** "Until someone came in to amend it or end it."

**MICHAELIS** "Well, based on that, I will probably be voting against it, too."

**WHEELER** "I don't think I will be supporting the substitute motion. My concern is, can't they, if something should happen with the ownership, couldn't someone come back in and ask to revise the Conditional Use, or ask for the other zoning? If at some point they didn't want it to be owner-occupied?"

**KROUT** "Right. If they felt the circumstances were such that they wanted to come back to you and ask for that condition to be removed, they could come back and ask to amend the Conditional Use."

**WHEELER** "I guess I look at it as if someone was just coming in to rezone it to two-family, I would have difficulty supporting it."

**MARNELL** "Marvin, the way condition No. 3 is written, does that mean the current owner of property?"

**KROUT** "No, it means any owner. If it was approved with that condition, we would revise the wording to make it clear. It can't go with any particular owner, it has to go with the land, so it would apply to any future owner of the property. Whoever owns this property in the future will need to occupy one of the units in order for both units to be occupied. You can rent out one unit and be an absentee owner, but if you want both units to be occupied, then the owner has to live in one of them."

**LOPEZ** "I won't be voting in favor of the substitute motion simply because staff's contention is correct. If we don't stipulate that the owners' of the property to reside on the property, then we are basically starting the process of turning that neighborhood into rental property. It is a sad statement right now that it is 'TF-3' and it is allowed, but if the neighborhood gets together, they have a chance to protect their neighborhood. I won't be supporting the substitute motion."

**VOTE ON THE SUBSTITUTE MOTION:** The motion failed with 9 votes in opposition (Wheeler, Marnell, McKay, Platt, Michaelis, Garofalo, Barfield, Osborne-Howes, and Lopez) and 5 in favor (Warren, Johnson, Warner, Carraher and Hentzen).

**GAROFALO** "Okay, now we will go back to the original motion."

**HENTZEN** "I will tell you what you need to do if you want to help that neighborhood, and that is enforce the housing rules that are in effect now. It is a disaster. It has been referred to here as a 'nice neighborhood'. If that is nice, I would hate to see an unkempt one. That vacated alley behind there is just full of junk. It is vacated behind all of the houses behind there. It is not very desirable.

I am just saying that the alley, according to our information, is vacated. It is not being paved as an alley."

**PLATT** "I want to go on record as saying that I think it is a pretty nice neighborhood."

**OSBORNE-HOWES** "Me, too."

**VOTE ON THE ORIGINAL MOTION:** The motion carried with 11 votes in favor (Lopez, Wheeler, Platt, Johnson, Warren, Warner, Carraher, Garofalo, Barfield, Osborne-Howes and McKay), and 3 opposed (Marnell, Michaelis and Hentzen).

**KROUT** "I just want to explain, this is a Conditional Use, and unless someone appeals the decision, then it is the final decision of the Planning Commission. If the applicants decide that they can't live with the conditions that are being imposed, they can appeal this to the City Council within 14 days. If the neighbors within 200 feet, if any one of them protest, that will mean that this issue will automatically go to the City Council for a final decision. If more than 20% of the land area with 200 feet files a protest within 14 days, then it will take 6 votes to override the neighborhood opposition. If you have any questions, I will give you one of my cards.

4. **Case No. SCZ-0794** – Ruth C. Crowl Revocable Trust (owner); David A. Morris (Power of Attorney, contract purchaser); P.E. C. c/o Gary Wiley (agent) request a zone change from "SF-20" Single-Family residential to "MF" Manufactured Housing on property described as:

The Northwest Quarter, East of the railroad right-of-way, in Section 29, Township 28 South, Range 1 East of the Sixth Principal Meridian; Lots 19 and 20, Vandale Addition; Lots 71 thru 80, Replat of Vandale Annex; and 30 feet of vacated Arkansas Avenue and vacated Willis Avenue; all in Sedgwick County, Kansas. Generally located one-half mile west of Broadway, south of 55<sup>th</sup> Street South.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a zone change from "SF-20" Single Family to "MH" Manufactured Home for a proposed manufactured home park with 224 spaces. The application area is 39.5 acres in size. The tract includes the area extending from 55<sup>th</sup> Street South to 59<sup>th</sup> Street South, approximately one-half mile west of Broadway. The western boundary is the

UP-SP Railroad right-of-way. The application area is currently vacant except for two homes. The property had been used as an orchard.

The application area is located in an area with a range of housing types and conditions. The total number of housing units in the area extending eastward to Broadway is estimated at 150 units, with an average lot size of one-half to one acre. Old mobile homes, including two small mobile home parks near 59<sup>th</sup> and Broadway, and some single-wide manufactured homes comprise about 25 percent of the housing. These uses would be considered non-conforming uses. There is a sprinkling of residential-designed manufactured homes. The main housing type is site-built houses (65 %), most of which were constructed prior to 1974. The area extending to the southwest of the application area to Seneca is similar in character, age, and condition to the area extending to the east to Broadway. However, the railroad tracks serve as a barrier disconnecting the two areas from interaction, and the tornado last May destroyed the many of the houses. These houses are being replaced with new site-built housing and residential-designed manufactured homes.

The subdivisions to the north of 55<sup>th</sup> Street South are typical single-family developments built since 1980, with lots ranging in size from 6,500 to 10,000 square feet. Robbins-Farm Addition, directly to the north of the application area, has 140 lots. Stoneborough completes the area between Robbins Farm and Broadway. South Seneca Gardens occupies the majority of the quarter section northwest of the application area between Gold Coast Condominiums and Seneca. Gold Coast has 45 townhouses located along a lake and the railroad right-of-way immediately northwest of the application area.

The land south of the application area to 63<sup>rd</sup> Street South is in agricultural use.

The property is currently outside the corporate limits for Wichita, but would be annexed in order to obtain water and sewer service. As a result, the site plan has been reviewed based on requirements for manufactured home parks developed within the City of Wichita. The site plan provides one major point of access along 55<sup>th</sup>, and a gated emergency access point at 59<sup>th</sup>. A collector road is situated between a row of pad sites on the northern half of the site and loops around the southern portion of the park. The roadway is shown as only 29 feet in width. This would be the required width for a private road where parking was allowed on one side only. If parking were allowed on both sides, the road would need to be 35 feet wide. There are no sidewalks shown; manufactured home parks in the City of Wichita are required to provide sidewalks along collectors. This would necessitate extending the driveways and moving the patio spaces five feet further into the pad sites. Buffering of manufactured home parks would be required when adjacent to single family zoning districts. This would require provision of a landscape buffer 15 feet in width along the east property line. The buffer would consist of a minimum of one shade tree plus five shrubs every 30 lineal feet of property line. The width of the buffer could be reduced to 12 feet in width by increasing the size of plantings to 100 percent increase in minimum size specified by the Landscape Ordinance.

Other site plan items for consideration are drainage and fire response. During the process of subdivision platting, drainage plans would be required to ensure that the park would not increase off-site drainage to the east. The site plan does not indicate how much of the open space area, most of which is required by the city code to be reserved for open space, will be used for storm water detention. There are several access issues related to fire protection. Some of these issues include: placing the emergency access gate no closer than 30 feet to the entrance of 59<sup>th</sup>, having the gate be a minimum width of 16 feet when fully opened, providing emergency access signage on both sides of the gate and a padlock, and revising the plan to show a 50-foot turning radius at all road intersections. The proposed layout meets code requirements for open space. Storm shelters are to be located no further than 1,320 feet from any pad sites. The plan meets this requirement "as the crow flies," but the distance is approximately 1,500 feet over an approvable ADA accessible route. Since the shelter is required to meet ADA standards, this would need to be changed.

**CASE HISTORY:** The majority of the property is unplatted. Lots 19 and 20 of Vandale Addition were platted September 19, 1921. Lots 71 through 80 of Replat of Vandale Annex were platted March 31, 1947. Arkansas Avenue and Willis Avenue have been vacated from the plats. The date of vacation is unknown, but predates the "Gray Atlas," making it prior to 1960s.

#### **ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-6" Single Family; "TF-3" Two Family; "MF-18" Multi-Family	Single family residences, townhouses
EAST:	"SF-20" Single Family	Single family residences
SOUTH:	"SF-20" Single Family;	Agricultural
WEST:	"SF-20" Single Family	Vacant, scattered residences

**PUBLIC SERVICES:** Access to the property is via 55<sup>th</sup> Street South, a two-lane arterial. Traffic volumes in 1997 along 55<sup>th</sup> were estimated at 6,056 average daily trips (ADTs) at Broadway and 5,134 ADTs at Seneca. The 2020 projected traffic volumes did not project any appreciable growth, and the 2020 Transportation Plan did not propose widening the street. However, another 2,000 cars per day would be added if the application area is developed with up to 224 new housing units. Currently, traffic on 55<sup>th</sup> Street South is constrained at peak times when residents of the adjacent subdivisions are travelling to work, buses are picking up school children, and a train is blocking 55<sup>th</sup>. There are no plans to widen 55<sup>th</sup> Street in either the City or County Capital Improvements Plans. The entrance from the manufactured home park to 55<sup>th</sup> is shown 350 feet east of the railroad right-of-way, and 100 feet east of Palisade Avenue to the north. Although this is relatively close to Palisade and the railroad tracks, it is located on the eastern boundary of the application area and cannot be moved further eastward without expanding its land area.

The property is adjacent to the corporate limits for the City of Wichita. City water and sewer service is available north of 55<sup>th</sup> Street South. The applicant has agreed to petition for city water and sewer service and to request annexation.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for low-density residential use, which does not include manufactured home parks. According to the Wichita-Sedgwick County Comprehensive Plan, manufactured home parks are classified as being appropriate in a medium-density residential district. The application area is located within the "new growth" limits recommended by the Sedgwick County Development Guide.

The residential locational guideline in the Plan (#7) states that "mobile home parks should be located on larger tracts, buffered by physical barriers (e.g. freeways, drainageways, [and] other land uses) from traditional single-family neighborhoods." The Plan further states that Wichita had 677 acres of mobile home development in 1990, and will require nearly 800 acres of mobile home development by the year 2000.

A "Manufactured Housing Report" prepared by the MAPD July 24, 1997, identified a total of 745 acres of land already zoned "MH" Manufactured Housing, of which 160 acres were undeveloped, plus an additional 40 acres pending for "MH" zoning in the southwestern quadrant of Wichita, and another 100 acres which appeared to be a logical expansion of that zoning. No property south of 55<sup>th</sup> Street South was identified as being recommended for future expansion of "MH" zoning. A copy of the report is attached.

**RECOMMENDATION:** The Land Use Guide recommends the area for low-density residential use. This corresponds to the density of existing development in the area, or perhaps as much as 120 to 150 single-family homes if water and sewer were extended. The majority of the existing manufactured housing development is already concentrated in southwest Wichita. Enough land is already zoned "MH" in this area to provide at least 93 percent of the estimated land area needed for the entire metropolitan area through the year 2000. The proposed site is directly across 55<sup>th</sup> Street South, a traditional single-family development. The land could be developed with traditional single-family housing, including residential-design manufactured housing in its current zoning. Based on these factors, Staff recommends the application by **DENIED**. However, should the Metropolitan Area Planning Commission chose to recommend that the application be approved, it is recommended it be subject to platting within one year, and subject to a revised site plan being submitted to the MAPC for review and approval prior to forwarding this request to the County Commission.

The revised site plan should show all screening required by the Unified Zoning Code, a landscaping buffer along the common property line with the "SF-20" zoning district to the east, as specified in the Landscape Ordinance for the City of Wichita, and a landscaped street yard and a solid screening wall of six to eight feet in height along 55<sup>th</sup> Street South. The collector road extending from 55<sup>th</sup> Street South southward to the southern tier of lot spaces and looping around the western portion of the park should be improved to a 35-foot width, and sidewalks should be provided along at least one side of the main road, including the looped area serving the western portion of the site. Driveways and patio spaces should be positioned upon the lot spaces to accommodate sidewalks. A minimum of ten feet should be provided between all buildings.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Residential uses to the north consist of single-family housing zoned "SF-6", a small strip of "TF-3" land that is vacant, and "MF-18" developed as townhouse condominiums. Residential uses to the east and southwest are zoned "SF-20" and include a variety of housing types, including mobile homes, but the predominant housing type is single family homes of conventional construction, and all the existing mobile homes are nonconforming uses. The land to the south is "SF-20" and in agricultural use.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be used agriculturally, or could be developed with large lot homes with on-site water and sewer, or smaller lots if water and sewer lines are extended. Residential-design manufactured homes (RDHMs) could be located on lots in the application area if it were platted as a traditional single-family subdivision, so long as the units met the conditions for RDHMs. This would be in character to the surrounding land use where there is a mixture of conventional and manufactured home housing types.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The change to "MH" Manufactured Housing would increase further the disproportionate share of manufactured housing in the southwest quadrant of the metropolitan area. A concentration of children living close to the railroad right-of-way poses a safety threat.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed manufactured home park would be inconsistent with the "low density residential" designation recommended by the Land Use Guide and conflicts with the residential locational guideline (#7) that mobile home parks be "buffered by physical barriers (e.g. freeways, drainageways, [and] other land uses from traditional single-family neighborhoods."
5. Impact of the proposed development on community facilities: The volume of trips generated by 224 units, of which all would be exiting onto 55<sup>th</sup>, would increase congestion during peak hours of travel, and could create bottlenecks during times when trains travel through the area.

**WARREN** "Are you asking for a turning lane there on 55<sup>th</sup> Street South?"

**GOLTRY** "No. Well, they actually have 50 foot turning radius on 55<sup>th</sup> already. That already conforms. What we are asking for turning radii would be there, there, there and there (pointing to loops on collector street)."

**KROUT** "Turn lanes on 55<sup>th</sup> Street."

**GOLTRY** "No, we did not request turn lanes on 55<sup>th</sup> Street."

This property, because it is a large property, would require being served by City Water and Sewer, which is available nearby. Because of that, we have looked at the City of Wichita's Manufactured Housing requirements for the layout, design and approval of the site plan for Manufactured Housing. Those are the standards we have used in the review.

In particular, they have proposed a landscape streetyard and a screening wall along the north, where they get their access of 55<sup>th</sup> Street South. They have agreed to provide the buffer that is required along the east, adjacent to the 'SF-20' property. It is my understanding that they are intending to do some screening along here, but not screening two in a landscape ordinance sense, which would not be required by the Landscape Ordinance, since it is adjacent to the railroad tracks, but for security reasons.

They are showing 29 foot street widths. This is one point where I believe there is some difference of opinion between the applicant and staff. What we basically have is a collector street that comes along like this and a loop along behind here, which forms the collector street network. We have requested that the collector streets be 35' in width. The Fire Department has requested that either they provide the 35' street network or 50' turning radii on all of the Collector Streets. I should have included a request for left-turn lanes along 55<sup>th</sup> Street in the staff report. I believe we need to work through that issue.

I have received a letter from the Haysville Planning Commission in regard to their opinion that they would like for you to consider. This is not within the small cities' jurisdiction for Haysville, so this was just a courtesy letter that they provided to us. I have also received two additional pieces of written correspondence. I believe those were all placed at your chairs before you arrived today. I will stand for questions?"

**BARFIELD** "Does the traffic justify the turn lanes if this is not approved?"

**GOLTRY** "Could the traffic justify turn lanes? Yes, I believe so. I will let Marvin speak to if he thinks so."

**KROUT** "I think if you are going to have the traffic from 224 units coming out of one entrance at 55<sup>th</sup> Street, that you have about twice as much traffic as the subdivision regulations would say would require turn lanes. I think especially because 55<sup>th</sup> Street is approaching its capacity as a two-lane road. It would definitely be necessary for a project of this density of that limited access. If this property was divided into large lots like the properties to the east and the traffic was allowed to circulate in different directions so it all didn't come out in one place and you had fewer units, then we wouldn't be asking for any turn lanes."

**WARREN** "Do we not have access to 59<sup>th</sup> Street?"

**GOLTRY** "No access to 59<sup>th</sup>. It is shown as gated access, meaning it would have an emergency padlock for the Fire Department for fire protection purposes only."

**WARREN** "Is it possible to get access on 59<sup>th</sup> Street? Is 59<sup>th</sup> Street open in there? I didn't go down there."

**GOLTRY** "Fifty-nine Street ends at the house adjacent to this site. Actually, 59<sup>th</sup> Street ends at the property line, but it is kind of semi-improved from the last house to the quarter section line."

**WARREN** "But it would be available, potentially, as another access?"

**GOLTRY** "It is available."

**KROUT** "We would generally say that it is not desirable to take urban density traffic and dump it out onto a partially improved suburban street."

**WARREN** "I was just thinking for a secondary outlet."

**OSBORNE-HOWES** "So if it is gated, that means they really won't use it."

**GOLTRY** "If it is gated, it is supposed to be padlocked, and the only people who would have access would be emergency personnel. On 59<sup>th</sup> Street."

**GAROFALO** "Are there any other questions? I just wanted to know, we got a comment here from the Haysville Planning Commission, which I appreciate, but the fact that the applicant here apparently intends to ask for annexation, I wonder why this wasn't sent to CPO Council 4 for some consideration, since the city limits is right there on 55<sup>th</sup> Street?"

**KROUT** "It has not been the Planning Commission's policy, and you can revisit that someday if you want to, although we seem to be losing the CPOs in the near future. But if the case was a county case, even if it was adjacent to the City, we have not sent it to the CPOs."

**OSBORNE-HOWES** "Is this in the Haysville school district?"

**GOLTRY** "Yes."

**GAROFALO** "Are there any other questions? Okay, we will hear from the applicant or agent."

**GARY WILEY** "Mr. Chair, Commissioners, I am here on behalf of the contract purchasers in this case, Mr. David Morris. Mr. Morris is here with me today as well as his father, Bill, who also is in the mobile home park business."

David Morris has been involved in mobile home parks since 1982, about 17 years, so he is not new to the industry. He looked at this property, I think in July, or so and before writing the contract, he approached the Planning Department to get their opinion on this site. I think the consensus was that if there was a good place for a mobile home park, this would be it, but they still couldn't support it, as you could see in the staff comments.

I think Donna did a real good job of covering things, but I would like to go over the comments. We have agreed to basically revise the site plan to accommodate, and we will have two storm shelters and will meet the ADA standards, we will, in fact, have the 50-foot turning radiuses; and we will, in fact, revise the plan to show the 15-foot landscaping along the eastern property line. We will also provide for fencing along the railroad right-of-way. There seems to be some concern about that.

One thing, before we go any further, you know the Comp Plan calls for mobile home parks to be located on arterials or other areas for buffers. Well, I think a railroad track and a section mile line road would be considered to be the proposed areas that would suit mobile home parks development.

In looking at some of the issues here, traffic seems to be one of the major issues. Right now, on Page 3, under public services, the traffic generated there today is some 6,000 cars at Broadway and some 5,100 cars at Seneca. Now they are claiming that this mobile home park is going to increase that by some 2,000 cars a day. That is over 10 trips a day for the mobile home park per dwelling unit. We feel that that is a little excessive. This mile line road is only serving some 500 houses today in itself, and Campus High is about a mile and a half to the west of this site on 55<sup>th</sup> Street South.

Density was the other thing. We have proposed a mobile home park here with 224 units. That is a density of 5.7 units per acre. The 'SF-6' zoning district permits 7.2 dwelling units per acre. With that in mind, I did a plan, so that we could just see for sure. I ended up with a single-family development with 173 dwelling units. Some just 50 dwelling units shy of this proposed mobile home park. We are, in fact, a rather low density mobile home park. Eight is permitted by the Code and we are at 5.7.

The only other issue that we had, and as Donna said we were able to iron out most of them, is doing the revised site plan and incorporating a 35-foot paved roadway along the 'collector system'. Our proposal was to do a 29-foot roadway with parking allowed only on one side, which is permitted by Code. We proposed to have no 21' right-of-ways, as is permitted by Code. If, in fact, we did a 35' roadway and parking is permitted on both sides, there is no additional paving left over and above the 29'. It is the same basic travelway as the 29 with parking on one side, versus 35 with parking on two sides. So we would prefer to do all 29 foot. It is permitted by the ordinance. With that in mind, and we would be happy to revise the plan to incorporate all of these other particular changes, but we just don't see that it needs to come back to the Planning Commission for a final approval. That is something I don't think the Code requires is approval by the Planning Commission for the layout itself. You basically have it, and we would like the opportunity to make the changes and go on to the next governing body, in this case, the County Commission. I think that basically covers everything. David Morris is here if you have questions.

Oh, I might respond to what Ray was mentioning about the left-turn lanes. That is something that would come about at the time of platting the land, and I don't think we would have any disagreement at all with doing a left-turn lane into the site."

**GAROFALO** "Are there any questions of Gary?"

**WARREN** "Now, on this street that you are talking about 29 foot, we are talking about an all black-top 29 foot?"

**WILEY** "Curb and gutter, it is 29 feet from back of curb to back of curb, with parking allowed on one side only. In fact, Mr. Morris has indicated that he may not allow parking anywhere."

**WARREN** "Our city streets are 30 feet as I recall."

**WILEY** "They are 29 foot."

**WARREN** "So that is a city street."

**WILEY** "A city street standard, as far as the width."

**MICHAELIS** "Gary, can you tell me how, like on this one storm shelter here in the middle, how do they get to that?"

**WILEY** "They would come through the openings. We would have a sidewalk system through those openings between those lots. We plan on moving that. I think what we will do, Jerry, is move it down to Lot 49, which is just south. We will eliminate that lot and bring a shelter system down there, right on the private road, and then put the other one up at the office at the entrance of the site. That way we can have parking adjacent so that there is available parking."

**MICHAELIS** "That is what I was getting at. Essentially now, everybody has to walk a quarter of a mile to get there."

**GAROFALO** "Gary, I have one question. Has the applicant explored any of the other multitude of tracts of parcels that are already zoned for manufactured housing?"

**WILEY** "Well, there is a comment in here that there is a lot of it available, but it doesn't seem to be available. In fact, this 40-acre piece, as I see it, just finishes out that 800 acres that is going to be needed in a couple of months. I think the only place they have looked at is an expansion adjacent to some existing mobile home parks. Maybe Mr. Krout can speak better to that, but there isn't



anything out there available that is already zoned for a mobile home park. This ground, by the way, has been on the market for some two years. Even with sewer and water available, it has not been found to be single-family type ground."

**GAROFALO** "When you say available, what do you mean?"

**WILEY** "Well, it has been on the market for..."

**GAROFALO** "No, I mean the other properties. When you say unavailable, what do you mean, they are not for sale?"

**WILEY** "They are not for sale. What little bit there is. I know of one major park that I did back in 1982, and it is still setting there and is not for sale for redevelopment."

**WHEELER** "This open space here that is shown as drainage, is that strictly a detention drainage?"

**WILEY** "There will some in there, Deanna."

**WHEELER** "Are there going to be any amenities in this neighborhood, like..."

**WILEY** "Sure. There will be some playground equipment, and that type of thing."

**WHEELER** "What is the width of these lots?"

**WILEY** "The minimum is a 50-foot width, 5,000 square feet, 50 x 100. Many of them are much larger. The majority are larger than 50 x 100. It probably averages about 6,300 square feet, or thereabouts."

**WHEELER** "Will there be standard curb cuts?"

**WILEY** "Yes. They will use the roll curb and gutter system, and then provide the parking, the patios that are shown in the typical site plan."

**GAROFALO** "Are there any other questions? Okay, you have 3 minutes and 52 seconds if the applicant would want to say something."

**MORRIS** (From the audience) "I don't have anything to add."

**GAROFALO** "Okay. I would like to know now, how many people want to speak on this, either in favor or in opposition. Would you raise your hands? I count 13 people. Do we want to do something about perhaps limiting the amount of time to speak since there are so many?"

**MOTION:** That all speakers' speaking time be limited to 3 minutes, whether they are in favor or in opposition.

**MCKAY** moved, **WARREN** seconded the motion, and it carried unanimously (14-0).

**WARREN** "I would like to encourage people that if they hear somebody speaking to what they wanted to say, maybe they could refrain from going ahead and saying the same thing over again."

**MCKAY** "I heard a comment made that 'he gets 10 minutes and we only get 3 minutes', but it is 3 x 13, and that is a lot more than 10 minutes."

**GAROFALO** "Is there anyone here to speak in favor of this application? Okay, who wants to speak first in opposition?"

**DAVID BOWMAKER** "I have a place at 5831 South Minnie and 5848 South Minnie. First, what is wrong here, on the railroad tracks that they are saying going through here where they are going to put a turn signal, if you've got a train here, and these trains sit there for 15 to 20 minutes...do you know how much traffic that is going to divert to these little side roads through here to get back to Broadway. Because they split the train up here at 47<sup>th</sup> street.

Second, there is a major gas pipeline that runs right down through here (indicating). No one has ever mentioned this. Do you guys know that? Okay. I don't know how many feet you have to go between there and there.

Third, this is good agriculture land. Why on earth would you want to put a trailer park there? It is good, working land. Like in that drainage deal, the water from 55<sup>th</sup> is supposed to go to the Cowskin and the Cowskin down to the Big Ditch. It doesn't handle it. This land does flood. We had a major flood in just this last run we had, the 8 inch one. It floods, like she said, down south of there from 59<sup>th</sup> Street over to Blood Orchard. That floods, too. When they developed all of this, like I said, they said an opening wouldn't be down at 59<sup>th</sup>, but on 58<sup>th</sup>. That is going to divert the traffic out that way, too.

This was hit in 1991 in the tornado, and it was hit again this year by the May 3<sup>rd</sup> one. That tornado went right down by those railroad tracks. That is all I have to say except that this would really be a shame."

**LOPEZ** "Did you say there is a major pipe line there?"

**BOWMAKER** "Yeah. A Koch pipeline runs right down this section, all the way through Wichita. Straight down through here. I think it is a 14-inch main gas line. Do you know what happens when one of those blows up?"

**LILA HOLLINGSWORTH** "I live at 5520 South Gold. I am the vice-president of the Gold Coast Homeowners' Association. I was asked to represent it. There are 45 units there. We oppose this very much, because of lower property values, the Fire Department, appearances, looks, maintenance, safety of the children, close to a railroad track, increased traffic, the problem of children trespassing the lake. That is all I have to say. Thank you."

**GAROFALO** "Did anyone have a question?"

**PLATT** "I didn't hear...what association are you president of?"

**HOLLINGSWORTH** "Gold Coast."

**MICHAELIS** "Is that the condominium unit?"

**HOLLINGSWORTH** "Yes, it is. It is on 55<sup>th</sup> Street."

**GAROFALO** "Ma'am, would you go point out where it is exactly? Thank you. Are there any other questions? Thank you, ma'am. Next speaker."

**BOB HELSBY** "I live at 715 West Maywood. My back yard is adjacent to 55<sup>th</sup> Street South on the north side. I believe it was Tuesday that I stood there, in my back yard and observed traffic backed up from Broadway to Seneca. That is a safety consideration. Now, you have school buses, and school kids running up and down there. The tankers from Vulcan heavily travel that street. A train can hold up blocks of traffic. You have school buses stopped, letting kids off and picking them up. Has anybody considered the safety aspect of it?"

The second thing is the depreciation of a mobile home. Within three years, it depreciates. The standard home appreciates. We have already got an over-run of mobile home parks in the south of Wichita. Seneca, Meridian, Hydraulic, MacArthur...when is it going to stop? That is all I've got to say."

**GAROFALO** "Are there any questions? Okay, thank you. Next speaker."

**MICHAEL BOWMAKER** "I live at 5832 South Minnie. I am against mobile homes. In a 4 x 3-mile square on the south end of town, I've got, right here, something like 28 mobile parks. It is about time to stop it and build houses. That's all I've got to say."

**NORMAN BLAKE** "I live at 827 Wallingford. I am with the Riverside Homeowner's Association. They are going to have some problems down there on that street, because of 55<sup>th</sup> Street and the railroad tracks. What I want to know...can I ask Mr. Wiley a question?"

**KROUT** "You can ask him a question and he can answer it in his two minutes."

**GAROFALO** "He has two minutes for rebuttal, so you can ask the question now and he will refer to it later on."

**BLAKE** "On this left lane, where is he going to put it? The center line. Where are you going to get the center line at?"

**GAROFALO** "Okay. He will answer that when he has his rebuttal."

**BLAKE** "Okay. There are a lot of children in this area, and I do represent several hundred people down in that area, and they are totally opposed to these trailer parks. I can't emphasize that to you in a big degree today, but there are quite a few people here. The only reason I am here is because there are too many trailer parks down there and you have no drainage down in there, we have no water down in there, we have no sewer down in there, and I am working on petitions to try to take City water down to that area. The person that owns this property refused to sign a water petition. That is all I have to say."

**MCKAY** "What homeowner's association do you represent?"

**BLAKE** "The Riverside Well-Water Homeowner's Association."

**MCKAY** "Where is it at on the map?"

**BLAKE** "I go from Clarksdale to Midland, Vandale, Orchard View 1 & 2, the whole area. I represent from Seneca to Hydraulic. From 55<sup>th</sup> to 71<sup>st</sup> Street."

**PAM DOFFING** "I live at 5919 Jones, straight east of this property. Everything that everyone else has said about 55<sup>th</sup> and, and even if they were to widen 55<sup>th</sup> to four lane, from that property for a fire truck or any vehicle to try to come out when your railroad track is so close, I don't see how it can be done."

The other thing someone hit on, the fire station, and at this point, since the County, several years ago, because of the water situation, moved our fire station, we don't even have a fire station. It could come from MacArthur, and between Seneca and

Broadway. It could come from Haysville, or it could come from Derby, Rock Road and 63<sup>rd</sup>. We have no idea where our fire trucks will come from if we catch on fire. I think that needs to be addressed, also.

You had some questions about coming out on our residential streets. There aren't any streets there, and we are a township, and if they are going to be annexed into the city, I don't see how they can come into our secondary roads. Another concern was the railroad tracks even putting up a fence. Kids are going to be kids, they are going to play on those tracks, and that is a safety concern. Also, on down 55<sup>th</sup> to Campus High School, they are in the process of adding a new elementary school. Right next to that, is another mobile home park.

My daughter has two more years, and I hope she doesn't have a wreck. There is that construction and then when this mobile home park goes in down there....the last two principals at Campus High have agreed that we need some turn signals down there at Meridian and Seneca. After the tornado went through, it took parents and the media just to get a stop light put up. Also, on this property in the 1970s, they did find contamination. I am sure you are all aware of the saltwater contamination down there. If I am not annexed into the City and I am still on this nasty well water, when they start going in there and dredging and digging up all of these old uncapped oil wells, what is going to happen to my water then? It is going to get worse. That is all I have to say."

**GAROFALO** "Are there any questions of the speaker? Thank you. The next speaker."

**WAYNE HANCOCK** "I live at 418 West 59<sup>th</sup> Street South, which is at the end of Minnie Street and 59<sup>th</sup> Street. I am just west of the corner. My house is about 30 feet from this proposed change here, within 30 feet of that parcel. That is low through there. There is a water problem. When it rains, the east half of that 40 acres south of 57<sup>th</sup> Street floods. All of the houses up and down Minnie, along in there, their drainage is back to the west. It all comes down and accumulates at my place. I have been there 25 years, and at least 50 times, I have had my garden area, the whole back of my place under water, and my sewer system is back there. That is not good. It takes it about 10 days to straighten out after it gets flooded.

Three times I have had water under my house, it has run through my foundation and under the house, into my furnace ductwork. Any improvements over there, any paving, any buildings that are put up are going to contribute to the run-off water. I wonder how deep it will be in my house after the next heavy rain after they put that in. They talk about curb and gutter, but they didn't say anything about storm sewers to carry the water away. They cannot run that water to the west from that low spot there. One of the pictures that was up there a while ago of the water is right against that hedge row up there, which is the west edge of the Van Dale Addition. That is on the south side. Fifty-ninth Street divides it there. There are no culverts to allow the water back and forth, so from there on north up to 57<sup>th</sup> Street is low.

There are 10 acres in there that have been platted. They are in the Van Dale addition. That is 300 feet deep, east and west, and for another possibly 200 yards to the west, that all slopes back to the east, and just on the west side of my house. That is where all of the water comes to. Any oil, grease, or spray of any kind that is put on any of the lawns or gardens or what have you, and the dogs and cats use the back yards, and then when it rains, it all washes down and settles around my house. So I am not in favor of this. The main questions is, how are they going to take care of it?"

**ANNA KOSTECKI** "I live at 506 West 54<sup>th</sup> Street South, in the Robbins Farm Addition, which is the City portion of the property north of 55<sup>th</sup> Street. Roughly, there are 140 homes in there and then there are the newer homes that are in this area. There is the Seneca Gardens, the Gold Coast townhouses, and Sunborough, or whatever its name is.

But anyway, we are in the newer housing additions there. We want to keep this as single-family residential because of the value of our homes in that area. We have bought down there with the intentions of the south side hopefully improving over what it is. The last two major tornadoes that have hit have destroyed a lot of mobile homes down in that area. These are not permanent foundations, they are just tied down homes. They are totally destroyed. That is a factor for the people that are there, it is not safe for them. It is too bad that the storms had to hit these areas, but because the storms have destroyed these areas, people are building back newer homes, on-site homes, or if they are putting a manufactured home in there, it is a custom home.

The neighborhood is improving, the south part of Wichita is improving. We do not need another mobile home park down there. We already have more than our fair share of mobile homes down there. The south side of town does not need to be called Trailer City. We need to be considerate about this. The people basically north of 55<sup>th</sup> Street have invested their time and their money and their welfare in trying to improve this neighborhood, thinking that it is going to be better. The County has been kind of lax on the south side of 55<sup>th</sup> Street, about...it is kind of open for grabs about what we are doing. Let's put some proposals in there because the people that are building on Seneca Street who had their homes taken down, have brought that back up to a much better code. It is a much better improvement for the south side of Wichita. Let's improve it and not put a mobile home park there that the next tornado comes to and tears it up and kills people. Luckily, people weren't killed at Lakeshore when it demolished it, or the one at 55<sup>th</sup> and Hydraulic.

The traffic is a factor. If you are trying to come out on Palisade there out of 55<sup>th</sup> Street, everybody has already discussed that. The school zoning there, those things are my opposition to it. The train traffic that is going to be there, and I also called Koch Pipeline this morning and they were not aware of a housing addition there. Nobody notified them that it is going through there. That is the pipeline they are talking about. We may not be Tallgrass and we may not be Reflection Ridge, but we are responsible citizens of Wichita. I think our concerns need to be heard and be given consideration, and we don't need another trailer park. Thank you."

**GAROFALO** "Are there any questions of the speaker? Thank you, ma'am. Is there another speaker?"

**ROBIN KNIFLEY** "I live at 605 West 55<sup>th</sup> South. I live on the other side of the railroad tracks. There is a drainage problem in that area. It always floods, the front part of that, especially. Especially. The pipeline that goes down through there is pretty used. The

railroad that goes through there stays on the tracks for quite a while, all hours of the night. It really would be a really big problem for 55<sup>th</sup> especially. And for the other smaller side streets, too, because most of the people who live down there, you will find are single families, and it would be a lot of traffic for everybody to deal with, not to mention the drainage on the land and all of this and that.

I knew Mr. Crowl when I was a little bitty girl. He has always said that he wanted his property to stay agricultural for the growth of feeding all of these people. He didn't want his property destroyed for housing. There were plenty of other places for that, Mr. Crowl always said. He said that he really didn't want his property changed, and neither did my Dad. My Dad tried to get horse stables for us in there, and we got it where we could get horse stables. We do have farm animals. We have pigs. These people are really going to enjoy those pigs. I am being quite honest, ladies and gentlemen. I truthfully am. It would be a really big problem, I am sure you guys will find. Thank you for your time."

**GAROFALO** "Are there any questions of the speaker? Thank you, ma'am. Is there another speaker? Is there anyone else in opposition?"

**DEBBIE KNIFLEY** "I also live at 605 West 55<sup>th</sup> Street South. I've got three kids growing up there. We used to live in a trailer park. It was no good for the kids. Not where we were. I have seen a lot of the traffic that goes in and out there. I work at a school where it is mostly trailer park kids with all of their orientations. But I also know that there is too much traffic there, and I personally do not want that kind of traffic, the vehicles and that many people coming around my kids. Who knows who you are going to get in a trailer park? And how many options there are for people to get in there?"

At one point in time, we never knew it, but we had a sex offender living right behind us, and we had three little kids. So, that is my vote; it's against it. Yes, there are railroad tracks there and unless the parents are on top of those kids, there will be accidents as there have been on other railroad tracks throughout the years. Thank you."

**GAROFALO** "Are there any questions of the speaker? Thank you, ma'am. Is there anyone else to speak in opposition? Have we heard from everyone? Okay. Two minutes, Gary."

**WILEY** "It seems like drainage, a left-turn lane, drainage, left-turn lane, the pipeline, and the railroad seems to be the major concern. At the time of platting, we will, in fact, guarantee the construction of a left-turn lane in 55<sup>th</sup> Street South. That would be done to serve the entrance to our drive. I think that will answer the question there in that respect."

Drainage is something else that will be taken care of at the time of platting. We will have boundary surveys, topographic mappings, and what the City will require is the detention in excess of any pre versus post development for the drainage system. The detention system will, in fact, give us some much needed dirt in the area for the contouring of the land to make it drain better, and make it drain to our detention systems. We have not done a topo mapping yet, but we did know that it did drain to the west and over towards the railroad track. There has been a lot of talk about the trains blocking 55<sup>th</sup> Street South. Our exit is to the east. We will always have the route out 55<sup>th</sup> over towards Broadway, even if the tracks are blocked. I would assume that that is the way any emergency vehicles would get there also, from the east versus the west.

If this is not suitable for a mobile home park because of the railroad track, I am not so sure then, that it would be suitable for single-family residences either, so the land will just set there. It is served by sewer and water and it is needed for development. I did find out that Mr. Morris has spoken to Koch and that pipeline is not being used at the present time, not to say that they would surrender it though. They just said that right at this present time it is not being used. There has been a Phase I environmental study done on this property and it came out clean."

**MCKAY** "Gary, I have 2 or 3 questions. First, the pipeline showed up when they were showing the pictures, and if this lines up to what this one gentleman said, the configuration you have here will not work, because whether they are using it or not, they still have to have an easement for it."

**WILEY** "That's right. We will just have them slip it over."

**KROUT** "Slip it over to where?"

**MCKAY** "For our benefit, show us approximately where that pipeline is? Is it where the gentleman pointed out?"

**WILEY** "It is my understanding that it is running right down this roadway here (indicating)."

**KROUT** "Can you show us on the slide?"

**WILEY** "It doesn't show up on any of them."

**KROUT** "Can you show us where it would be, though? Where it would be on the site plan?"

**MCKAY** "Gary, we have these site plans in front of us. That is what I think Marvin is referring to. If it is where that gentleman said it was, you are going to lose Lots 32 through 17 in block 5."

**WILEY** "Oh, okay. It goes up where old Gold is. Do you know where Gold is, to the north? That is where it is running. And it would be running in on one of our street areas as well. We would probably lose 3 to 4 lots through the middle of that 32 to 40."

**KROUT** "Will you show us on the map?"

**WILEY** "What I am understanding is that that line is running right up through here."

**MCKAY** "How about from the south?"

**WILEY** "Right up through here. It would come down through here and we will have to do some shifting there. What we will do is eliminate some of the lots."

**MCKAY** "My second question is probably the one that bothers me as much as anything, although it wasn't alluded to very much. I am looking at this, and if is a platting subdivision, and I know this is not platting, this is half a mile long, is it not?"

**WILEY** "That is correct."

**MCKAY** "Somewhere in here we would have to have an access to get out of this if it was single-family lots."

**WILEY** "We do. At 59<sup>th</sup> Street South, John."

**MCKAY** "Okay. You have a second access."

**WILEY** "What we have proposed there is an emergency access only to prevent the traffic from going into the neighborhood."

**MCKAY** "Okay. But I am saying that if this was a single-family, this would not suffice as far as subdivision regulations are concerned. You would have to have an access somewhere, and the way I look at this, you've got about 2 or 3 different places here that you could possibly do that."

**WILEY** "We could do it."

**MCKAY** "But you don't propose it on your plan."

**WILEY** "No. I don't think the Planning Department would prefer to see that. I think they would prefer to..."

**MCKAY** "Would you like to make a wager?"

**WILEY** "Yeah. In this case, I would."

**MCKAY** "The only thing is that the comment was made that 59<sup>th</sup> Street is not paved and is not to any type of a standard."

**WILEY** "Fifty-ninth is a two lane asphalt black top."

**MCKAY** "My next questions is, to where is it an asphalt black top?"

**WILEY** "It goes to where our emergency access is, and a little bit beyond."

**MCKAY** "So you are saying....show me up here where it goes."

**WILEY** "The end of the black top is right there (indicating). There is our access."

**MCKAY** "So it does overlap your property."

**WILEY** "Oh, yeah. It goes on out to Broadway. Let me just say one thing. I can tell you that the developers, when they came to me, wanted to use 59<sup>th</sup> Street as their means of ingress and egress to this property and not 55<sup>th</sup>. I did convince them, I hope rightfully, that 55<sup>th</sup> was the place to go with their access and not through the neighborhood."

**MCKAY** "Thank you."

**GAROFALO** "Are there any other questions?"

**BARFIELD** "In deference to what I heard as the No. 1 opposition here was resistance to any future mobile home development in the area. Staff says that there is sufficient property that is already zoned for Manufactured Housing and you say the property is not available. Are you saying that it is not available for sale to a mobile home development or that it is not available period?"

**WILEY** "For mobile home development. I think what staff had indicated was there was a need for some 800 acres by the year 2000, of which 750 acres are already kind of set aside for that."

**GAROFALO** "Are there any other questions of Gary? Thank you. I will take this back to the Commission now, since we have heard from everyone. What is the pleasure of the Commission?"

**MOTION:** having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): Residential uses to the north consist of single-family housing zoned "SF-6",

a small strip of "TF-3" land that is vacant, and "MF-18" developed as townhouse condominiums. Residential uses to the east and southwest are zoned "SF-20" and include a variety of housing types, including mobile homes, but the predominant housing type is single family homes of conventional construction, and all the existing mobile homes are nonconforming uses. The land to the south is "SF-20" and in agricultural use. The suitability of the subject property for the uses to which it has been restricted: The property could be used agriculturally, or could be developed with large lot homes with on-site water and sewer, or smaller lots if water and sewer lines are extended. Residential-design manufactured homes (RDHMs) could be located on lots in the application area if it were platted as a traditional single-family subdivision, so long as the units met the conditions for RDHMs. This would be in character to the surrounding land use where there is a mixture of conventional and manufactured home housing types. Extent to which removal of the restrictions will detrimentally affect nearby property: The change to "MH" Manufactured Housing would increase further the disproportionate share of manufactured housing in the southwest quadrant of the metropolitan area. A concentration of children living close to the railroad right-of-way poses a safety threat. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The proposed manufactured home park would be inconsistent with the "low density residential" designation recommended by the Land Use Guide and conflicts with the residential locational guideline (#7) that mobile home parks be "buffered by physical barriers (e.g. freeways, drainageways, [and] other land uses from traditional single-family neighborhoods." Impact of the proposed development on community facilities: The volume of trips generated by 224 units, of which all would be exiting onto 55<sup>th</sup>, would increase congestion during peak hours of travel, and could create bottlenecks during times when trains travel through the area.) I move that we deny the request for zone change be denied, subject to staff findings.

**BARFIELD** moved, **CARRAHER** seconded the motion.

**LOPEZ** "Marvin, in prior developments when the development is going to go in, there are pipelines going through there, I guess it depends on the size of the pipeline and they said this was a 14 inch gas pipeline, what would be the easement on that?"

**KROUT** "There is probably an easement. I don't know what the width of the easement is on this property. I don't think we were aware of the pipeline easement being there when we reviewed the site plan. That would be another reason why we recommended that if you approve this, subject to the revised site plan that there are enough changes to the site plan that have to occur that we would still suggest that it come back to you for review before sending it on to the County Commissioners."

**LOPEZ** "Okay."

**WARREN** "Mr. Chair, this particular case has given me more trouble mentally, and I still, right now, don't know how I am going to vote on this. These people have a legitimate complaint going back for some years, re-affirmed in 1997, re-affirmed here again today that this board seems to have no problem with approving requests for mobile home additions in the south and southwest quadrants. You know, it doesn't take a rocket scientist to figure out that that is true. We have more mobile home courts in this area in any other area of Wichita. But I think we should look at the northeast, we should look at the northwest.

If this is a viable style of living, if we condone it, we have regulations for it, then it is our obligation to help spread these things around. So, to that, I want to say that these people are right on target. We have overdone it in their area.

On the other hand, I am looking at this piece of land and saying this is a legitimate use. We have a provision in our zoning regulations to approve mobile home parks. When you look at that piece of land you say 'okay, what should it not be, or what probably would it not be, just from a marketing point of view? I don't think you could market new homes in that area. So, I don't think to say that that is another option is really an available option. I suppose somebody could come along and say 'well, there is a railroad track there, we could have industrial along that area'. I don't think that would be satisfactory. So, as we tell a man that he has a piece of land and we want to give him use of it in accordance with our codes, probably the use he is asking for is the best use for that piece of land. And that concerns me because again, I am very sensitive to these folks here, but I don't know if we, as a Planning Commission, have got yet grounds enough to make this denial and make it stick. Say, if it was to go to court like one here recently did."

**HENTZEN** "I just want to follow up on what Ray is talking about, and ask Marvin this. Has the Planning Commission ever been able to use this distribution of mobile home parks as a reason for denial? In other words, have the courts ever addressed that? You take the four quadrants of Wichita, and I certainly agree that this one probably has more spaces than any other quadrant, so if we said we didn't want any more in that area, would that stick?"

**KROUT** "It would stick better if it was in the Comprehensive Plan. We haven't ever said in the Comprehensive Plan that there should be some limitation on mobile homes in any particular area. So not just for that reason, but I think that what you can do, and what we did was looked at the character of the area. There is not a mobile home park near this area. The difficulty is that once you establish a pattern, and there are some good economic reasons and fiscal reasons why mobile home parks have gravitated to this area, and it is like commercial zoning, once you approve one, it becomes harder to disapprove the next one.

But this area is kind of remote from some of those areas as opposed to areas in the '97 Plan, where we showed you some which haven't been zoned yet, but are available and are natural extensions, where that is probably the only logical use that is left. This is

a little bit of a different case. You have single-family surrounding this area, both in terms of zoning and land use and so you have good justification; I think there is no danger of any court overturning a denial on this if they follow the staff findings."

**PLATT** "I think the biggest problem I have with this is a little bit different from what we have been hearing. I think the applicant makes a good point in terms of the density. He says 'we can do this in single-family and come up with almost as many'. I think that is a good comparison. The point I make, and the reason I don't like this is that either way, if it, in essence dumps out every single piece of traffic from 240 more homes to one outlet, I don't think I would care whether it was single-family or manufactured housing, I think that is very, very poor planning to put that many people into one way to get out onto a street. It doesn't make sense. This land got itself back into this because of decisions the owners made in terms of when they sold off other pieces, and that is not our problem."

It seems to me that it has to be developed single-family or manufactured housing where there are more normal ways of moving in and out of the neighborhood than taking everything for half a mile and only taking it to one point. That just doesn't make sense to me."

**MICHAELIS** "I am just beginning to wonder if it wouldn't be appropriate, and maybe Gary could answer this, whether it wouldn't be almost worth deferring it and bringing it back with a site plan that really addresses the 55<sup>th</sup> Street, the pipeline, and the possibility of alternative exits. I agree with Commissioner Platt that the key thing of this is that you are putting a lot, a lot of cars in one spot and there is really only one direction for them to go. A lot of the concerns I have heard here today are based on traffic and congestion. We are not really addressing that with this particular plan."

**WHEELER** "I guess I have concerns of that single access with that large number of units there. The other is if you do re-plan it, you are going into residential neighborhoods. My major concern is changing the character of the neighborhood. I do think that this zoning could affect values in the area, once mobile homes were placed in this neighborhood. I do think it could be feasible to develop this under the present zoning."

**OSBORNE-HOWES** "I agree with Ms. Wheeler. I guess I am also looking at land use, and I am not sure that I believe it is compatible. I think that if we talk about the extension of single-family, it would be more likely to connect with those streets. It really does go back to the decision that the property owner made when they sold off lots. I don't even support deferring it."

**GAROFALO** "Is there any other discussion?"

**CARRAHER** "Mr. Chair, I would like to call the question, and request a roll call vote. For clarification, a 'yes' vote on the motion would be in favor of denial and a 'no' vote would be against denial, is that the case?"

**GAROFALO** "Yes."

**CARRAHER** "Thank you."

**MOTION:** That the question be called, and that a roll call vote be taken.

**CARRAHER** moved, **LOPEZ** seconded the motion, and it carried unanimously (14-0).

**GAROFALO** "All right, let's have a roll call vote on the motion to deny."

**VOTE ON THE MOTION:** The motion carried with 11 votes in favor (Lopez, Wheeler, Platt, Hentzen, Warren, Warner, Carraher, Garofalo, Barfield, Osborne-Howes, and McKay) and 3 in opposition (Marnell, Johnson, and Michaelis).

**KROUT** "Unless the applicant decides to withdraw this case, it will go forward to the County Commission. Their general policy is that they do open up these items for public hearing. We will send out a notice to anyone who spoke at this afternoon's meeting."

Osborne-Howes left the meeting at 3:30 p.m.

5. **Case No. CU-536** – John W. Schommer (Owner) and Debbie Dubuer (Lessee) request a Conditional Use permit to allow a home occupation on 5 acres, described as:

The North 5 acres of a tract beginning at the Southeast corner of the Northwest Quarter of Section 19, Township 25, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence West 972.8 feet; thence North 448.67 feet; thence East 960.96 feet to the East line; thence South 448.74 feet to the point of beginning. Generally located south of 101<sup>st</sup> Street North and 1/2 mile east of Meridian.

**KEITH GOOCH**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use to permit a home occupation on an unplatted five-acre tract of land. This property is zoned "RR" Rural Residential and is located south of 101<sup>st</sup> Street North and ½ mile east of Meridian. The applicant

is requesting this Conditional Use permit to allow a tractor-trailer to be parked on these five acres as part of a home occupation. The applicant is an independent truck driver and uses this vehicle as part of the business.

Sedgwick County Code Enforcement is in the process of requiring this tractor-trailer to be removed from the property or comply with the amended Unified Zoning Code (UZC). The home occupation guidelines of the UZC permit the parking of one commercial vehicle as part of a home occupation that does not exceed 26,000 pounds gross vehicle weight rating. However, the applicant does not meet the following requirements of rural home occupations: rural home occupations must be located on a minimum of 20 acres; the rural home occupation may not be conducted within 600 feet of a dwelling wherein no rural home occupation is conducted; and outdoor storage is permitted provided the size of the storage area does not exceed 10,000 square feet, is located behind the principal structure and 200 feet from all property lines, screening of the storage area by structures, solid or semi-solid fencing and/or landscape materials from adjacent roads and properties is required within 600 feet of a property line or public right-of-way. The applicant only has five acres of land, is located within 600 feet of a dwelling unit which is not conducting a home occupation, and does not provide the required screening to the south, east or west.

The Unified Zoning Code was recently amended to allow a rural home occupation as a Conditional Use that does not meet one or more of the rural home occupation requirements, as long as the property is no less than five acres in size and no more than four non-residents are employed in the home occupation. This property is five acres in size and does not employ any outside employees.

The applicant has submitted a site plan which shows the tractor trailer parked in front of the principal structure on-site, which also does not conform to the requirements of the UZC but may be waived as part of a Conditional Use request. There is a solid hedgerow located between this property and the property to the north and south. The property just south of this application area is also requesting a Conditional Use to permit the same use. There is not any additional screening provided to the east or west which would meet the requirements for outside storage of the UZC. Staff is recommending that the applicant will be required to provide plantings along the east property line if the property to the east is developed with residential uses.

The property adjacent to this site is all zoned "RR." The property owner to the south is also attempting to obtain a Conditional Use to permit a tractor-trailer. There is undeveloped property located to the east and west of the application area. North of this property is a single-family home.

**CASE HISTORY:** None

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR"	Single-family home
SOUTH: "RR"	Single-family home
EAST:	"RR" Undeveloped agriculture land
WEST: "RR"	Undeveloped land

**PUBLIC SERVICES:** This site has access to a private road, which is to be maintained by the property owners located along this street. The private road feeds into 101<sup>st</sup> Street North, a two-lane County highway with current traffic volumes of 547. The 2030 Transportation Plan estimates these volumes will increase to approximately 2,000. This property has no access to municipal services or rural water.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use map of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. This category has the intent of protecting agricultural resources and is meant to accommodate agricultural operations on substantial acreage. This category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses.

**RECOMMENDATION:** Based upon the information available prior to the public hearing, Planning staff is recommending approval of the request subject to the following conditions:

1. The Conditional Use shall only be permitted for a home occupation involving the parking of one tractor-trailer. No other home occupations shall be conducted on-site without amending the Conditional Use permit.
2. The applicant shall maintain the solid row of evergreen trees along the south and north property lines. If in the future, the property to the east is developed with residential uses, the applicant shall plant a solid row of evergreen trees to provide screening except at the driveway entrances.
3. The applicant shall comply with all other conditions for a rural home occupation except for the standards that were specifically waived as part of this Conditional Use.
4. Any violation of the previously stated conditions shall render the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are single-family homes located to the north and south of this property, zoned "RR." The property to the east and west is also zoned "RR" but is undeveloped agriculture land.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The property to the south is also requesting a Conditional Use to allow a home occupation, while the property to the east and west is undeveloped land.



Staff is recommended that the applicant plant a solid row of evergreen trees along the east property line, if the property to the east is ever developed with residential uses. North of the application area is an existing single-family home, which should be buffered by the solid row of evergreen trees. Planning staff also understands that the applicant has contacted the owner of this home, and he/she does not object to this request.

3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use map of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. This category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses. This request does conform to the agricultural intent of the Comprehensive Plan.
4. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "RR" and is developed with a single-family home. If the applicant was able to meet all of the Unified Zoning Code requirements for a home occupation then the applicant would be permitted to park the tractor-trailer on this property "by-right."
5. Impact of the proposed development on community facilities: The private road is required to be maintained by the applicants and other owners of property along it and therefore should not be impacted. 101<sup>st</sup> Street North will be impacted somewhat but should not be significant.

**GOOCH** "Are there any questions?"

**GAROFALO** "Questions of Keith? I have one suggestion that as a possible fifth condition, that the Conditional Use permit would expire immediately, or words to that affect, if and when the home occupation ends or is discontinued."

**MCKAY** "Isn't it a single use to begin with? Marvin. It says 'only'."

**GOOCH** "Only for a tractor/trailer parking home occupation, but it would run with the land if someone else wanted to come in and park a tractor/trailer."

**KROUT** "But the suggestion that Frank is making probably could be used. What he is suggesting is that if this property sold to someone for a 5-acre lot and that person had no intention of continuing that use, and parking a semi-tractor/trailer on the property, that then the Conditional Use would go away."

**MCKAY** "I thought you had in there that no other home occupation shall be conducted on the site without amending the Conditional Use. Doesn't that take care of it?"

**KROUT** "Well, what Frank is saying is that if the property was sold and the use went away, it would erase this Conditional Use. Otherwise, this Conditional Use just sits there forever and three generations from now, someone could still take advantage of it."

**GAROFALO** "Or if they were to get out of the trucking business. If they just didn't want to be in the trucking business anymore, the thing would just sit there. I am just saying that we should consider adding that the Conditional Use permit would expire immediately if and when the home occupation ends or is discontinued."

**GOOCH** "Marvin may not agree with me, but it is sometimes difficult for Code Enforcement to follow these closely like this. Maybe it would be easier to put a request on the applicant like we do for temporary manufactured homes, that they have to contact Code Enforcement and tell them that they are still using it as tractor/trailer parking. That they still have this home occupation. Then if they don't meet that requirement in the future, Code Enforcement would know that they have moved or sold it or something. They are no longer going to continue this use. I just brought that up because it is easier for Code Enforcement."

**KROUT** "You could add that to what Frank suggested."

**WARREN** "I hate to burden them with that, though, they have to call in every year. I think what Frank said is good enough, that Code Enforcement could figure it out. They can ask these folks."

**GOOCH** "It is just a simple phone call, that is what I was saying."

**WARREN** "Well, if they don't...."

**GOOCH** "They will remember."

**WARREN** "They could have a document with our Conditional Use expressed on there and show it to Code Enforcement."

**GAROFALO** "We can discuss this a bit more later. Let's hear from the applicant."

**DEBBIE CULVER** "I live at 1715 West 101<sup>st</sup> Street North. I guess I agree with all of the recommendations that they have put forth. The only thing is that on discontinuing the Conditional Use, say if in a couple of years my husband decides that he doesn't want to drive a diesel anymore, than two years later, he decides he wants to again, I would have to turn around and go through all of this again to get that re-established. That's all."

**GAROFALO** "Are there any questions of the applicant? Shall we hear from the other applicant?"

**KROUT** "Keith, did you present both cases?"

**GOOCH** "No. I was going to go back and do the other one."

**KROUT** "You can do whatever you want to do. Let Keith present the second case and then you can vote separately on the two Conditional Uses. Does that make sense?"

**GAROFALO** "Yes. Are there any questions of the applicant? Okay. Let me ask if there is anyone here wishing to speak in favor of these applications? Is there anyone here to speak in opposition? Okay. I will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: There are single-family homes located to the north and south of this property, zoned "RR." The property to the east and west is also zoned "RR" but is undeveloped agriculture land. Extent to which removal of the restrictions will detrimentally affect nearby property: The property to the north is also requesting a Conditional Use to allow a home occupation, while the property to the east and west is undeveloped and, therefore should not be detrimentally impacted. South of the application area is an existing single-family home which should be buffered by the solid row of evergreen trees. Planning staff also understands that the applicant has contacted the owner of this home, and he/she does not object to this request. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use map of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. This category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses. This request does conform to the agricultural intent of the Comprehensive Plan. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "RR" and is developed with a single-family home. If the applicant was able to meet all of the Unified Zoning Code requirements for a home occupation then the applicant would be permitted to park the tractor trailer on this property "by-right." Impact of the proposed development on community facilities: The private road is required to be maintained by the applicants and other owners of property along it and therefore should not be impacted. 101<sup>st</sup> Street North will be impacted somewhat but should not be significant.) I move that we recommend to the governing body that CU-536 be approved, subject to the following:

1. The Conditional Use shall only be permitted for a home occupation involving the parking of one tractor-trailer. No other home occupations shall be conducted on-site without amending the Conditional Use.
2. The applicant shall plant and maintain a solid row of evergreen trees along the south property line, and shall maintain the existing hedgerow along the north property line. If in the future the property to the east is developed with residential uses, the applicant shall plant a solid row of evergreen trees to provide screening except at the driveway entrances.
3. The applicant shall comply with all other conditions for a rural home occupation except for the standards that were specifically waived as part of this Conditional Use.
4. Any violation of the previously stated conditions shall render the Conditional Use permit null and void.
5. The site shall be developed in general conformance as with the approved site plan attached to and made a part of this resolution.

**WHEELER** moved, **MCKAY** seconded the motion.

**MCKAY** "My question is that you have down here 'continuous evergreen growth'. What is that? Is that every 5 feet? Is that every 15 feet? Is that every 20 feet?"

**GOOCH** "Solid."

**MCKAY** "Solid. Okay. Tell me what is solid? Does it mean that you have to put them (indicating) that far apart? What is solid today, five years from now won't be solid. Half of them will be dead."

**GOOCH** "I think they would have to replant what is dead, if you could see through it."

**MCKAY** "You need to be realistic, quit being funny and tell us whether it is going to be for 10 feet, 15 feet. Because an evergreen is going to grow, in five years, if you plant them every 5 feet apart, half of them are going to die."

**KROUT** "It depends what evergreens they plant. My suggestion is to say solid at maturity, and then if there is any question on the part of the applicant on what tree they are choosing..."

**MCKAY** "If you say that, that is fine."

**MICHAELIS** "This is a question of Marvin, too. It is a point of clarification, I guess. I haven't been here a long time, I guess, but long enough to see that we get a lot of Conditional Use requests that apply to a one-time specific thing. Is there any other thing in the Zone Code that allows a usage to stay with that particular person, and when that person leaves it goes away?"

**KROUT** "No."

**WHEELER** "It stays with the land."

**KROUT** "With zoning you don't look at the individual, you look at the land use, no matter who owns it."

**MICHAELIS** "As the second of the motion, I would like to make the amendment of whatever Marvin said. Solid at maturity. On Item No. 5, they just say solid evergreen. I asked staff what solid was and they said 'solid'. Well, is that solid today, is that solid tomorrow? Because if you go in there and plant solid today at 3-1/2 to 4 feet, in 5 years, 2/3 of those are going to be dead because they don't have any room to grow. So there needs to be some type of establishment. So, solid at maturity."

**WHEELER** "I concur."

**GAROFALO** "Let me ask the maker of the motion, are you not in favor of my suggestion?"

**WHEELER** "No, to me, if the property is suitable today for an 18-wheeler to be parked there, it would be appropriate if they decide to sell it in two years."

**VOTE ON THE MOTION:** The motion carried unanimously with 13 votes in favor.

6. **Case No. Cu -537** – Kathy Hultman (Owner/Applicant) requests Conditional Use permit to allow a home occupation on 5 acres of property described as:

Beginning at a point in the East line and 448.74 feet North of the southeast corner of the Northwest Quarter of Section 19, Township 25 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas; thence N 87 degrees 48'49" W parallel with the South line of said Northwest Quarter, a distance of 485.15 feet; thence N 00 degrees 04'29"W, a distance of 449.41 feet; thence S 87 degrees 48'49"E, a distance of 484.40 feet to a point in the East line of said Northwest Quarter; thence S 00 degrees 10'15"E, a distance of 449.44 feet to the point of beginning. Generally located south of 101<sup>st</sup> Street North and 1/2 mile east of Meridian.

**KEITH GOOCH**, Planning staff pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use to permit a home occupation on an unplatted five-acre tract of land. This property is zoned "RR" Rural Residential and is located south of 101<sup>st</sup> Street North and 1/2 mile east of Meridian. The applicant is requesting this Conditional Use permit to allow a tractor-trailer to be parked on these five acres as part of a home occupation. The applicant is an independent truck driver and uses this vehicle as part of the business.

Sedgwick County Code Enforcement is in the process of requiring this tractor-trailer to be removed from the property or comply with the amended Unified Zoning Code (UZO). The home occupation guidelines of the UZO permit the parking of one commercial vehicle as part of a home occupation that does not exceed 26,000 pounds gross vehicle weight rating. However, the applicant does not meet the following requirements of rural home occupations: rural home occupations must be located on a minimum of 20 acres; the rural home occupation may not be conducted within 600 feet of a dwelling wherein no rural home occupation is conducted; and outdoor storage is permitted provided the size of the storage area does not exceed 10,000 square feet, is located behind the principal structure and 200 feet from all property lines, screening of the storage area by structures, solid or semi-solid fencing and/or landscape materials from adjacent roads and properties is required within 600 feet of a property line or public right-of-way. The applicant only has five acres of land, is located within 600 feet of a dwelling unit which is not conducting a home occupation, and does not provide the required screening to the south, east or west.

The Unified Zoning Code was recently amended to allow a rural home occupation as a Conditional Use that does not meet one or more of the rural home occupation requirements, as long as the property is no less than five acres in size and no more than four non-residents are employed in the home occupation. This property is five acres in size and does not employ any outside employees.

The applicant has submitted a site plan which shows the tractor trailer parked in front of the principal structure on-site, which also does not conform to the requirements of the UZO but may be waived as part of a Conditional Use request. A solid hedgerow is located between this property and the property to the north, who is also requesting a Conditional Use to permit the same use. However, no other screening is provided to the south, east or west, which would meet the requirements for outside storage of the UZO. Staff is recommending that the applicant plant a solid row of evergreen trees along the south property line to provide buffering for the neighbor to the south, and require future planting along the east property line if the property to the east is developed with residential uses.

The property adjacent to this site is all zoned "RR." The property owner to the north is also attempting to obtain a Conditional Use to permit a tractor-trailer. There is undeveloped property located to the east and west of the application area. South of this property is a single-family home.

**CASE HISTORY:** None

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" Single-family home  
SOUTH: "RR" Single-family home  
EAST: "RR" Undeveloped agriculture land  
WEST: "RR" Undeveloped land

**PUBLIC SERVICES:** This site has access to a private road which is to be maintained by the property owners located along this street. The private road feeds into 101<sup>st</sup> Street North, a two-lane County highway with current traffic volumes of 547. The 2030 Transportation Plan estimates these volumes will increase to approximately 2,000. This property has no access to municipal services or rural water.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use map of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. This category has the intent of protecting agricultural resources and is meant to accommodate agricultural operations on substantial acreage. This category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses.

**RECOMMENDATION:** Based upon the information available prior to the public hearing, Planning staff is recommending approval of the request subject to the following conditions:

1. The Conditional Use shall only be permitted for a home occupation involving the parking of one tractor-trailer. No other home occupations shall be conducted on-site without amending the Conditional Use.
2. The applicant shall plant and maintain a solid row of evergreen trees along the south property line, and shall maintain the existing hedgerow along the north property line. If in the future the property to the east is developed with residential uses, the applicant shall plant a solid row of evergreen trees to provide screening except at the driveway entrances.
3. The applicant shall comply with all other conditions for a rural home occupation except for the standards that were specifically waived as part of this Conditional Use.
4. Any violation of the previously stated conditions shall render the Conditional Use permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are single-family homes located to the north and south of this property, zoned "RR." The property to the east and west is also zoned "RR" but is undeveloped agriculture land.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: The property to the north is also requesting a Conditional Use to allow a home occupation, while the property to the east and west is undeveloped and, therefore should not be detrimentally impacted. South of the application area is an existing single-family home which should be buffered by the solid row of evergreen trees. Planning staff also understands that the applicant has contacted the owner of this home, and he/she does not object to this request.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use map of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. This category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses. This request does conform to the agricultural intent of the Comprehensive Plan.
4. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "RR" and is developed with a single-family home. If the applicant was able to meet all of the Unified Zoning Code requirements for a home occupation then the applicant would be permitted to park the tractor trailer on this property "by-right."
5. Impact of the proposed development on community facilities: The private road is required to be maintained by the applicants and other owners of property along it and therefore should not be impacted. 101<sup>st</sup> Street North will be impacted somewhat but should not be significant.

**GOOCH** "This is basically the same as CU-536; however, we are not requiring any additional plantings at this time of this applicant. There is already a solid row of evergreens to her north and to her south. Are there any questions?"

**LOPEZ** "When you took the slides, was it on the same day?"

**GOOCH** "Yes. A rainstorm had hit."

**LOPEZ** "Go back the other way. Right there. That trailer and then go back the other way. That and the other trailer are different. There are two trailers."

**GOOCH** "Right. That is CU-536 and this is CU-537."

**GAROFALO** "Are there other questions? Okay, we will hear from the other applicant."

**KATHY HULTMAN** "Hi. I live at 1713 West 101<sup>st</sup> Street. I think Keith and Debbie have covered everything. I do have one question. Okay, say if I wanted to sell my property next year and the person that bought that was a truck driver, they would not be able to continue to keep that Conditional Permit?"

**KROUT** "With the recommendations that were in the staff report, they would be able to. It would go with the land. But even if you used it up until the time you sold the property and another owner then used it after that, even with the Chair's suggestion, it would still be permitted. It is just that if someone decided and stopped using it for that use, then they would have to come back through the process if they wanted to re-establish it."

**HULTMAN** "Okay, thanks."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: There are single-family homes located to the north and south of this property, zoned "RR." The property to the east and west is also zoned "RR" but is undeveloped agriculture land. Extent to which removal of the restrictions will detrimentally affect nearby property: The property to the north is also requesting a Conditional Use to allow a home occupation, while the property to the east and west is undeveloped and, therefore should not be detrimentally impacted. South of the application area is an existing single-family home which should be buffered by the solid row of evergreen trees. Planning staff also understands that the applicant has contacted the owner of this home, and he/she does not object to this request. Conformance of the requested change to the adopted or recognized Comprehensive Plan: The Land Use map of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. This category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses. This request does conform to the agricultural intent of the Comprehensive Plan. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "RR" and is developed with a single-family home. If the applicant was able to meet all of the Unified Zoning Code requirements for a home occupation then the applicant would be permitted to park the tractor trailer on this property "by-right." Impact of the proposed development on community facilities: The private road is required to be maintained by the applicants and other owners of property along it and therefore should not be impacted. 101<sup>st</sup> Street North will be impacted somewhat but should not be significant.) I move that we recommend to the governing body that CU-537 be approved, subject to the following:

1. The Conditional Use shall only be permitted for a home occupation involving the parking of one tractor-trailer. No other home occupations shall be conducted on-site without amending the Conditional Use.
2. The applicant shall plant and maintain a solid row of evergreen trees along the south property line, and shall maintain the existing hedgerow along the north property line. If in the future the property to the east is developed with residential uses, the applicant shall plant a solid row of evergreen trees to provide screening except at the driveway entrances.
3. The applicant shall comply with all other conditions for a rural home occupation except for the standards that were specifically waived as part of this Conditional Use.
4. Any violation of the previously stated conditions shall render the Conditional Use permit null and void.
5. The site shall be developed in general conformance as with the approved site plan attached to and made a part of this resolution.

**WHEELER** moved, **MARNELL** seconded the motion, and it carried unanimously (13-0).

**KROUT** "I just want to say that it has been a 'long haul' as they say in the trucking business, but unless the neighbors file a protest, this is a final decision."

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**7a. Case No. Z-3336** - Michael G. Loveland (owner); Baughman Company c/o Terry Smythe (agent) requests a zone change from "SF-6" Single-family Residential and "LC" Limited Commercial to "LC" Limited Commercial; and

**7b. Case No. DP-247- 127<sup>th</sup> Retail Center** – Michael G. Loveland (owner); Baughman Company c/o Terry Smythe requests the creation of 127<sup>th</sup> Retail Center Community Unit Plan, on property described as:

Rezoning Request (SF-6 to LC)

- A. The west 40.00 feet and the south 66.00 feet of Lot 1, Gilder's Gardens, Sedgwick County, Kansas, TOGETHER with the south 66.00 feet of the E ½ of the NE ¼ of the NE ¼ of the NE ¼ of Sec. 22, Twp. 27-S R-2-E of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, all being subject to road rights-of-way of record.

Community Unit Plan

- B. All of Lot 1, Gilder's Gardens, Sedgwick County, Kansas, TOGETHER with the E ½ of the NE ¼ of the NE ¼ of the NE ¼ of Sec. 22, Twp. 27-S, R-2-E of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, all being subject to road rights-of-way of record. Generally located on the southwest corner of 127<sup>th</sup> Street East and Central Avenue.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting the creation of a Community Unit Plan for the southwest corner of 127<sup>th</sup> Street East and E. Central Avenue, with the entire C.U.P. being zoned "LC" Limited Commercial. The majority of the site, 6.6 acres, is already zoned "LC". The remaining 1.1 acres represents the balance of the ownership on the western and southern edge of the tract.

The proposed C.U.P. has six parcels. Parcel 1 is 3.63 acres in size and is situated as the interior portion of the development with one major point of access onto Central and one major point onto 127<sup>th</sup>. The five remaining parcels abut Central or 127<sup>th</sup> and are all slightly less than one acre in size. Access is proposed via one point of joint access between Parcel 3 and Parcel 4 and one between Parcel 4 and Parcel 5, plus sharing of the major openings with Parcel 1 onto Central and 127<sup>th</sup>. The applicant states that cross-lot access circulation agreements shall be required at the time of platting to assure internal vehicular movement between parcels. These would be particularly important for guaranteeing left turn access for Parcel 4 across Parcel 3 and Parcel 5.

The applicant proposes each parcel permit all uses in the "LC" zoning district except for adult entertainment establishments, group homes, group residential, halfway houses, correctional placement residences, private clubs, taverns, and drinking establishments. Restaurants that serve liquor would be permitted as long as food was the primary service of the establishment. All uses that require conditional use permits in the "LC" districts would be permitted only by amending the C.U.P.

Each parcel would be limited to 30 percent maximum building coverage and 35 percent floor area ratio. All buildings would be limited to 35 feet in height. Setbacks are shown at 35 feet on all exterior property lines of the C.U.P. A masonry screening wall of six feet in height would be constructed along the western and southern property lines where the adjacent property is zoned for residential use. Landscaping would include a landscape buffer along the southern property line, and landscape street yards along Central, 127<sup>th</sup> Street East, and Garnett Avenue.

The applicant proposes that all buildings share uniform architectural character, color, texture and the same predominant exterior building materials, predominately earth-tone colors, and similar or consistent parking lot lighting elements.

The applicant proposes that all signs be in accordance with the Sign Code of the City of Wichita, and with the additional conditions that all freestanding signs along Central and 127<sup>th</sup> shall be monument-type signs with a maximum height of 20 feet, and the maximum square footage of sign face shall not exceed 80 percent of the C.U.P. frontage. All monument signs shall be spaced a minimum of 150 feet apart, irrespective of how the land is leased. The following signs would not be permitted in the C.U.P.: flashing (except time, temperature and other public service messages), rotating and moving signs; portable signs; off-site signs; window display signs with more than 25 percent of the window area; and signs on the rear of any buildings.

A suggested definition of a monument sign, until the Sign Code is amended, is that it be a detached sign where the width of the base of the sign is at least ½ of the width of the widest part of the sign face, or where the base consists of two or more supports where the sign face is not more than two feet above the average grade of the ground. The materials of the base shall be one of the following: masonry, wood, anodized metal, stone or concrete. A monument sign shall harmonize with the architecture of the structure or complex it serves and be constructed of materials consistent with the same.

The proposed C.U.P. is located in an area that is in the process of transition. Historically, the area was developed with a semi-rural character. The opening of K-96 with an interchange approximately one-fourth mile southeast of the site has provided an impetus for urban development along the East Central corridor. New development in the area includes a service station/car wash and the Elpyco Church of Christ to the north. To the east of K-96, there are several single-family subdivisions, and the Vynes, an assisted living facility. Proposed new development includes relocation of the Church of the Magdalene to the northwest, proposed office development and a residential-suites hotel to the west.

Existing uses on the proposed C.U.P. site includes an abandoned structure, most likely an abandoned house, and three or four additional residences. These structures would be removed before commercial development. The area to the south and southwest of the application area is occupied with residences zoned "SF-6" Single Family on lots averaging one to two acres in size.

**CASE HISTORY:** The application area is comprised of Lot 1, Gilder's Gardens Addition, platted December 29, 1923, and an unplatted tract of land that is 3.3 acres in size.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LC", SF-20"	Service station, church
SOUTH: "SF-6"	Large lot residential
EAST: "LC"	Vacant
WEST: "SF-6"	Large lot residential

**PUBLIC SERVICES:** Municipal water service is available. Sewer service is available from the 4-Mile Creek Sewer District. The property is located along two major arterial streets, Central and 127<sup>th</sup>. Central is a five-lane arterial; 127<sup>th</sup> is a three-lane arterial south of Central adjacent to the application area, but is a five-lane arterial north of Central. Recommended traffic improvements

include: adding a fourth lane to 127<sup>th</sup> to provide a continuous right turn lane along the frontage of the development, limiting the shared access on Central near 127<sup>th</sup> to right in/right out turns, and extending the left turn lane on Central to the location of the major opening onto Central. It is also suggested that access onto Garnett be restricted to no more than two openings, and that this access be prohibited so long as the adjoining properties are zoned "SF-6." If Garnett is used for access, the applicant should be required to agree to participate in a petition for improvement of Garnett.

**CONFORMANCE TO PLANS/POLICIES:**

The Land Use Guide of the Comprehensive Plan identifies this area for commercial use. The commercial locational guidelines recommend that commercial uses be located in "planned centers" with site design features which limit noise, lighting, and other activities so as not to adversely impact surrounding residential areas. Also, the planned centers should be oriented to minimize traffic impact due to its location in relation to major traffic routes and the use of shared access points. The development of out parcels should be integrated in relation to planned retail centers through shared internal vehicular and pedestrian circulation, combined signage, similar landscaping and building materials, and combined ingress/egress. The proposed C.U.P. adheres to these recommended locational guidelines, with the exception that additional measures would avoid adverse impacts on the "SF-6" property to the south and to the west across Garnett.

**RECOMMENDATION:**

The proposed application area offers a good potential commercial site for future development due to its location at the intersection of East Central and 127<sup>th</sup>, and its proximity to an interchange on K-96. The Comprehensive Plan shows the area for future commercial development. Based on this, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (SCZ-3336) to "LC" Limited Commercial, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-247), subject to the following conditions:
  1. The following transportation improvements shall be provided:
    - A. A fourth lane added on the western side of 127<sup>th</sup> across the frontage of the development.
    - B. The shared opening on Central shall be limited to right-in/right-out turn movements by construction of a channelized "Y" opening at the site entrance or by construction of a raised central median on Central.
    - C. The left turn lane on Central shall be extended to the west to at least 30 feet west of the curb of the major opening.
    - D. Access shall be prohibited along Garnett so long as the adjoining property is zoned "SF-6." If there is access along Garnett, it shall be limited to no more than two entrances and the applicant shall petition for improvement of Garnett.
  2. General Provision #3 shall be revised to state that parking shall be in accordance with Article IV of the Unified Zoning Code.
  3. General Provision #18 shall be revised to include the following statement, "All other uses in the "LC" Zoning district will be allowed except within the south and west 150 feet, where so long as the adjoining properties are zoned "SF-6", the following uses will be eliminated:

Drive-in and drive-through restaurants  
Convenience stores  
Service Stations  
Car washes  
No overhead doors for auto service and/or repair facing Garnett.
  4. General Provision #22 shall be revised to add the following: "including, but not limited to, cross-lot circulation for Parcel 4 across Parcel 3 and Parcel 5."
  5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  7. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

8. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-247) includes special conditions for development on this property.
9. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property immediately to the north is zoned "LC" and is in commercial uses. This commercial corner is surrounded by institutional (church) uses. The property to the west and south are zoned "SF-6" and occupied by large lot residential. Farther to the west is land zoned "GO" for general office and hotel uses. The land to the east is vacant and zoned "LC".
2. The suitability of the subject property for the uses to which it has been restricted: The majority of the tract is already zoned "LC" Limited Commercial and could be developed as a C.U.P. The effect of the change in zoning is to bring the perimeter of the ownership into the same zoning district classification.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The change in zoning classification would allow commercial uses to be adjacent to nearby property to the south instead of being buffered by a 60-foot strip zoned "SF-6" on the south and a 25-foot strip on the west. However, there will still be screening of the C.U.P. and buffering per the Landscape ordinance to provide separation between uses.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The area is within the new growth limits shown on the County Development Guide, and is shown as future commercial on the Wichita Land Use Guide. The request, as recommended by staff, is in conformance with the commercial locational guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: Traffic increases anticipated by the new commercial development should be mitigated by the proposed traffic improvements. Intrusion of traffic into the residential area to the south should be reduced by the access controls incorporated as part of the C.U.P.

**GOLTRY** "On Item D of Condition No. 1, 'the following transportation improvements', I will say that I do believe that the applicant has not agreed to that condition, which is 'access shall be prohibited along Garnett as long as the adjoining property is zoned 'SF-6'. I will let them speak to that. We have asked, because of the fact that this is a residential area still, in here, that we would like to control access along Garnett to keep the property exiting toward Central. They have two exits. (indicating) One right here and one right here. We have asked for their exits to have the traffic going there rather than going up and down Garnett Street, so long as that adjacent property remains zoned 'SF-6' single-family. If it were to be in a different zoning category, we would not see that as a major problem, but with 'SF-6', we have asked for that.

The other thing we have requested is to restrict the uses along the south and west 150 feet by eliminating some of the more intense commercial uses of drive-in and drive-through restaurants, convenience stores, service stations, car washes or overhead doors for auto service and/or repair facing Garnett. I will stand for questions."

**GAROFALO** "Donna, on Page 5, at the top of the page, did you say 'D' is the only one that the applicant is not agreeing to?"

**GOLTRY** "Yes."

**PLATT** "Who paid for all of those handsome stoplights we saw in the slides?"

**GOLTRY** "I can't tell you the answer to that question. Marvin, do you know who paid for the stoplight improvements at 127<sup>th</sup> Street and Central?"

**KROUT** "That was probably part of the Central project."

**GAROFALO** "Are the other corners already rezoned?"

**GOLTRY** "The 'SF-20' area includes a lot of the Magdalene or the diocese property that has been speculated about in the newspapers. I am a little reluctant to talk about that because I understand that that is not a completed transaction, but I am sure it is public information, since it has been in the newspaper.

This area is already 'LC'. We have an application that is pending for all of the property south of the K-96 exchange. There is a K-96 exchange right along here that comes over here and then comes up. For the property along there, we already have another application pending for it. It is a large CUP that you will be seeing in the future."

**GAROFALO** "Are there any other questions? If not, we will hear from the applicant. Oh, Donna, I do have one other question. Has the Traffic Engineer looked at the accesses, etc?"

**GOLTRY** "The recommendations for traffic improvements that you saw in the staff report were provided to us by Jamsheed Mehta as Transportation Planner and by Paul Gunzelman as the acting Traffic Engineer."



**GAROFALO** "Okay, thank you."

**TERRY SMYTHE** "I am here on behalf of the applicant. The site plan that is being passed out to you all, first, notice the big red stamp at the bottom of the page. Its a preliminary plan and is strictly there to show you that the applicant has hired an architect, he has gone through some design sketches on how he wants to try to develop a shopping center. Right now, the very corner that is labeled 'service station' has a contract purchaser that is going to be a savings and loan type of building on that corner. So, subject to change, I just want to give you an idea that this applicant is serious about doing a quality commercial corner.

Just to give you an idea, mainly on this item 'D' that we need to discuss a little bit, Garnett, and that is the access points to Garnett Avenue. As you know, our site is quite deep and we fully understand that it is going back into the residential neighborhood down here. The house on Lot 2 sits right about in this area. I think the lunar module display is right there (indicating). That is a pretty good deal. You guys need to take a look at that.

What we are asking for, and the applicant seems to think that with this piece of property undeveloped today, and according to the rough site plan, as access point for that one parcel, right about there; we are asking for consideration that that be allowed today. Then if and when the rest is rezoned non-residential, then give us the ability to open up that other point down here. I just think, from the traffic flow, the service drives and the shopping center, at some point in time, the two openings to Garnett makes more sense. I am asking, I guess for your consideration on the northern point, to allow that to happen today.

In my humble opinion, I think that Central will continue to re-zone non-residential, as well as 127<sup>th</sup> Street in the future, quite frankly. That is the only reluctant part that I have. The uses that we have, in terms of limiting uses on the south 160 feet here and on the west side, Donna talked about that at great length. Those are conditions that would remain on the property until this piece rezones and this piece rezones. I think in light of particularly over here in Garnett, in light of the fact that we are giving up some of the different kind of uses, drive-in, drive-through restaurants over here, I think that is going to help buffer Garnett today. You have the landscape ordinance that provides buffering and screening, and you have wall requirements down here. You've got compatibility standards that I think all help protect what is undeveloped at single-family zoning, right up here. So I am asking you for your consideration on at least that northern point today."

**KROUT** "Staff goes along with allowing access on the northern point he is talking about. We go along with that."

**SMYTHE** "Okay."

**WARREN** "What we are looking at here primarily is your CUP. I think that is what we are approving today. CUPs simulate restrictive covenants in many ways. The difference being that restrictive covenants are enforced by District Courts and CUPs are enforced by the City."

**SMYTHE** "Right."

**WARREN** "I am going to ask you a question. Our CUPs seem to be very similar, which tells me that they are not necessarily your proposal. Things such as trade dress, unique building styles. In other words you are talking about maybe a service station there. I can hardly believe that it would keep in the same style. Are you in favor of all of these things, or is this a condition of you thinking you are going to get approved?"

**SMYTHE** "That is an interesting question. I think, over the years I have been doing this, I have learned. In all honestly, Marv and I have done a lot of work in terms of architectural compatibility, and with this particular applicant, I have seen some plans of what he would like to do out there. He is comfortable, I think, with that architectural compatibility standard. It doesn't mean that a potential service station is going to look exactly like a restaurant next door. It just means that there is a certain range of compatibility in terms of some colors, some architectural styles, lighting standards that will help tie it together. It doesn't mean identical."

**WARREN** "Well, I certainly have no problem with a guy wanting to develop an up-scale commercial development. I think it is great whether you do it through restrictive covenants or whether you do it through a CUP. It doesn't make any difference. I do hate to see us impose these standard computer printout type requirements on all commercial developments in the future. And I am going to keep on this subject as long as we have to because we aren't a Santa Fe, New Mexico. To have everything look alike is going to get pretty boring.

For instance here, we are saying that your landscape is going to require a landscape architect. We have a lot of landscape specialists, so I don't know if you have to hire an architect or not for landscape."

**SMYTHE** "As a landscape architect myself, I think we need to."

**WARREN** "Well, it would seem to me that you are very happy and content, so I will be, too."

**MCKAY** "Marvin just made the comment that staff is okay with an access onto Garnett Avenue on the north half, or the north portion. That is not to exceed how far south of Central? Because they have a design here for a service road to come in on the south and make that loop into there, so we are actually eliminating, then, from that north exit south to that corner on that access service road. Are you saying use that design that he has there, or he has some ramifications from here to there to put in?"

**KROUT** "We should identify a distance, and it should be something just south of where he is showing the drawing."

**SMYTHE** "Correct. Just along that south parcel line would be the ideal place."

**KROUT** "Yeah."

**MCKAY** "I don't care where, but I just think you ought to have an identification of where it is going to be."

**MICHAELIS** "Is it possible to somehow tie these exits into what happens with that property right next door? Like right now we are saying 'okay, we will give you one to the north', but what I heard staff saying was if that parcel to the west of there becomes rezoned into commercial, then we wouldn't have a problem with giving you one to the south'."

**KROUT** "We can write it that way so that access would be restricted to one point on Garnett within 300 feet of Central until such time as the property is rezoned other than 'SF-6' further south of Wichita, and there would be two access points."

**SMYTHE** "We're fine with that."

**WHEELER** "I am just curious if that 300 feet is north of that existing single-family home?"

**KROUT** "I think it is. Can you put the aerial back on?"

**SMYTHE** "Yes, it is."

**WHEELER** "Okay."

**GAROFALO** "Is there anyone else to speak in favor of this application?"

**JOHN SJOGREN** "I have two properties here. I live at 335 North 127 East, which is one lot to the south on 127<sup>th</sup> Street, and then I also have another property on Garnett, which is one lot to the south along Garnett."

I am not speaking particularly in favor or against this application. It looks like a good thing to be happening. My wife would like for it not to happen because she is a country girl. But we live in a city and that is what happens.

I was glad to see that you went ahead and allowed the extra access on Garnett. I don't think that is going to pose a problem. I have rental property and the street is only half a mile long, and there aren't many residences. I don't think you are going to have much of a problem. The area right across the street to the west is vacant. She had that one slide there where she said somebody ought to explain a lunar module. That was a contest they had at the Space Center in Hutchinson and those people there happened to win that as part of a contest and it was delivered. It has been there for a number of years. It is a point of interest, as she says.

My main point of being here today is not to discuss what is flying above but what is flowing underneath the ground. We are part of the Four-Mile Creek sewer district, a large sewer district that was so controversial a number of years ago. When they put that in and imposed all of those costs upon us who own property and live in that area, we had many retired people, and I haven't really talked to any of them, but I just remember all of their discussions at those meetings, and the promises made to us at that time. The promises on that was that we would get cost relief as the area developed.

All I am asking is to make sure that that does happen because this is a commercial development in that sewer district. We have had a case previous, I guess three or four years ago, Fountains II, which is one mile west of this development that we are talking about here. It went in as a housing district. They had an exception to our sewer district, and therefore all of those houses did not pay into and therefore help relieve the costs on all of us that were promised that when people came into that area that that would happen. I am just here saying 'let's make sure that that doesn't happen with this property. There are no indications that anybody is trying to circumvent it as they did with Fountains II, but I just want to make sure that it doesn't slip through the crack here somehow, accidentally. Is there anyone who can speak to that as to how we can ensure that this really will happen with this property.'

**KROUT** "Terry may know better than I do, but the Fountains was an exception, partly because it had been platted in the early 80s and there were commitments that were made then for the approval of the plat for the City to provide sewer service, and also, The Fountains being over by Greenwich is over where it was easy to extend the City's system. But the City's system is more than a mile away from this tract of land, so I don't think there is any feasible way that they can tie into the City system. But they will be part of the Four Mile Creek system as this goes through the platting process, and they will be required to provide the guarantees to the County to assure that."

**SJOGREN** "And each unit on this development will be treated as an individual unit, just like every individual house is treated as an individual house?"

**KROUT** "Now, the charge is different for commercial uses than for residential uses, and I don't have the numbers for that. Do you have those numbers, Donna?"

**GOLTRY** "I checked with Mr. Weber about it because I thought that it would probably be an issue that would come up, and he said it is based on each unit as a household which would have 100,000 gallons of anticipated usage. They would have a fee for it as being part of the Four-Mile Creek impact fees. What they will do is look at what the actual building is, and each building will be assessed that based on the projected consumption of water."

In other words, a restaurant is going to have higher consumption, maybe, and a hotel would have higher consumption and a convenience store would have lower consumption, or a retail store that just has a small bathroom facility for office uses. But the development will be part of the Four Mile Creek."

**SJOGREN** "I might recommend that those hook-up charges and charges that are being levied on us, even though in my case, I am not even hooked into the sewer system, which runs across my property. There are many people out there still that way. We still pay for it though, and I am going to recommend that as these people come in and hook up that their charges be no less than ours. Because two people living in a home versus a commercial property, the commercial property should at least have that amount of impact. Each individual commercial property. That is all I am saying is let's not have them pay \$100 while we are paying thousands of dollars."

**KROUT** "All I can tell you is that the Planning Commission doesn't set the assessments. The County Commission has set those assessments, and I don't know, at this point, if they could even be changed. But if they could, and you would have to talk to Jim Weber about what exactly they would be in this case and whether you think it is fair or not, and if you have any way to appeal that to the County Commission."

Since this property is in the City and the Planning Commission doesn't deal with setting assessments, it is kind of outside of their jurisdiction."

**SJOGREN** "Well, the City has come in after the fact here, okay, and what was told to us at the time, the people in the area and the people in this district, which covers a large area. I am not going to get 50 cents relief out of this, I am just saying that since this was told to people that this is what was going to happen, and this part of what is setting the precedent of what is going on in the future, let's make sure that we set the proper precedent and get the proper fees paid back to those poor folks that had to pay for the sins of Crestview and Whitetail and all of those other developers that went out there and did you and all of us dirty by subdividing their developments and putting in more homes than what their sewer systems were designed for. That is why we suffered. It wasn't the fault of the people in the area, it was the fault of the developers. I don't think Mike is trying to come out there and mess things up for us...the developer here. I would like to see things follow through so that the people do get relief as these commercial developments come in. Otherwise, I think we are in favor of the area and look forward to the development. That has always been a point of conversation there. Are there any questions?"

**GAROFALO** "No questions? Okay. Is there anyone else to speak in favor of this?"

**DWAYNE MOLEN** "I represent my Mother, Josephine Molen and my brother and sister. My Dad died in November. My Grandfather and Grandmother grew up on these ten acres just south of John. We have seen a lot of changes. I think this proposal is great. I agree with John that the sewer is a very big concern. My Mother had to pay out \$20,000 plus to get the sewer system in. There was also a vote to take this part of the ground into the City and the people voted against it and from what I was told, some of these people didn't have city water, and so they waived their rights to later on let the City come in there."

So I guess what I am asking is the same thing, and that is that you help us in any way that you can. The CPO said that they would help us to see that there is some relief to my Mother and to us as landowners. Are there any questions? Like I said, I think it is a very good plan. I grew up and played in these streets and all of this area, and I have seen a lot of changes going on. I think they are pretty positive changes. One thing, I think it kind of makes the value of our property go up, so I try to stay involved in all of these meetings I can to protect our interest."

**GAROFALO** "Are there any questions? Thank you. Is there anyone else here to speak in favor of this? Is there anyone here to speak in opposition to this application? Seeing none, we will take this back to the Commission."

**MOTION:** Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The property immediately to the north is zoned "LC" and is in commercial uses. This commercial corner is surrounded by institutional (church) uses. The property to the west and south are zoned "SF-6" and occupied by large lot residential. Farther to the west is land zoned "GO" for general office and hotel uses. The land to the east is vacant and zoned "LC". The suitability of the subject property for the uses to which it has been restricted: The majority of the tract is already zoned "LC" Limited Commercial and could be developed as a C.U.P. The effect of the change in zoning is to bring the perimeter of the ownership into the same zoning district classification. Extent to which removal of the restrictions will detrimentally affect nearby property: The change in zoning classification would allow commercial uses to be adjacent to nearby property to the south instead of being buffered by a 60-foot strip zoned "SF-6" on the south and a 25-foot strip on the west. However, there will still be screening of the C.U.P. and buffering per the Landscape ordinance to provide separation between uses. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The area is within the new growth limits shown on the County Development Guide, and is shown as future commercial on the Wichita Land Use Guide. The request, as recommended by staff, is in conformance with the commercial locational guidelines of the Comprehensive Plan. Impact of the proposed development on community facilities: Traffic increases anticipated by the new commercial development should be mitigated by the proposed traffic improvements. Intrusion of traffic into the residential area to the south should be reduced by the access

controls incorporated as part of the C.U.P.) I move that we recommend to the governing body that the request be approved, subject to the following conditions:

- A. APPROVE the zone change (SCZ-3336) to "LC" Limited Commercial, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-247), subject to the following conditions:
  1. The following transportation improvements shall be provided:
    - A. A fourth lane added on the western side of 127<sup>th</sup> across the frontage of the development.
    - B. The shared opening on Central shall be limited to right-in/right-out turn movements by construction of a channelized "Y" opening at the site entrance or by construction of a raised central median on Central.
    - C. The left turn lane on Central shall be extended to the west to at least 30 feet west of the curb of the major opening.
    - D. One point of access shall be permitted on Garnett located up to 300 feet south of Central Avenue. If the adjoining property on Garnett is rezoned from "SF-6" Single Family, a second point of access shall be permitted on Garnett. If Garnett is used for access, the applicant shall petition for improvement of Garnett.
  2. General Provision #3 shall be revised to state that parking shall be in accordance with Article IV of the Unified Zoning Code.
  3. General Provision #18 shall be revised to include the following statement, "All other uses in the "LC" Zoning district will be allowed except within the south and west 150 feet, where so long as the adjoining properties are zoned "SF-6", the following uses will be eliminated:
    - Drive-in and drive-through restaurants
    - Convenience stores
    - Service Stations
    - Car washes
    - No overhead doors for auto service and/or repair facing Garnett.
  4. General Provision #22 shall be revised to add the following: "including, but not limited to, cross-lot circulation for Parcel 4 across Parcel 3 and Parcel 5."
  5. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  6. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  7. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The ordinance establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  8. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-247) includes special conditions for development on this property.
  9. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

**MICHAELIS** moved, **LOPEZ** seconded the motion, and it carried unanimously (13-0).

**WARREN** "I would like to make a comment. I am all for this motion, I think it is great, everything about it. I just want to point out to us sitting here now, that we have taken two issues today, one at the corner of Harry and Greenwich, which is not that far away from where this is, Central and 127<sup>th</sup> Street East. On one of them, we required 12-1/2 % for a traffic control signal and on the other one, we didn't. That is inconsistency that is going to get us into more damn trouble than we can get out of."

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7. **A 99-30** – The City of Wichita seeks the annexation of properties located north and south of 37<sup>th</sup> Street North, between Broadway and Hillside Avenue (Phase II).

**KROUT** "This is the second stage of a unilateral annexation that was begun several months ago. You reviewed the first stage. These are properties that are in the area of 37<sup>th</sup> and Broadway; 37<sup>th</sup> and Hillside, over 200 acres in total. It includes Philips Pipeline

and I think a couple of radio stations. One on 37<sup>th</sup> and one on Broadway. It is in the new growth area and we are asking you to find that this annexation would be consistent to the City's Comprehensive Plan."

**GAROFALO** "Is there any discussion on this one? I was just wondering, Marvin, the way I look at this map here, is there a reason why we didn't just go all the way over there and square it off?"

**KROUT** "In which area?"

**GAROFALO** (Indicating) Like here."

**KROUT** "Well, those properties that you are pointing to are over 21 acres, and they haven't asked for annexation, so they are not eligible to be annexed. They are also in agricultural use. The City is limited to being able to annex, without request, properties that are touching and are either 21 acres or are in some use other than agricultural."

**GAROFALO** "That answers my question. Thanks. Okay, do we have a motion?"

**MOTION:** That the Metropolitan Area Planning Commission finds the unilateral annexation proposed by the City of Wichita compatible with the adopted Comprehensive Plan, as amended in November 1996.

**GAROFALO** moved, **PLATT** seconded the motion, and it carried unanimously (13-0).

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**WHEELER** "I have a question, probably more of Marvin as to whether it would be appropriate or inappropriate for us to forward some kind of communication to the County Commission on cases that involve the Four Mile creek sewer system. We continue to get comments about the sewer fees and the equity and how those are applied. I don't mean that we should tell them to do something different, though we, in some way, should communicate to them, maybe in writing, that we continue to hear issues raised in conjunction with zoning cases about that."

**KROUT** "I will do that and I will attach an excerpt of these minutes so they will know what was your concern."

**GAROFALO** "Yeah, that does come up quite a bit, that Four Mile Creek thing."

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Hentzen left the meeting at 4:27 p.m.

**9. Update on Neighborhood Plans by Development Concepts, Inc.**

Jill Owens of Development Concepts, Inc. was present to provide a status report on the four neighborhood planning projects underway. The planning study areas are Orchard Breeze, Center City, Hilltop, and Midtown North. Location maps and summary reports for each of the neighborhood planning areas were distributed.

Ms Owens reported that the Orchard Breeze project called for the development of a neighborhood vision, goals and a prioritization of those goals by area residents and businesses. The work was nearly complete and a draft final report would be sent to MAPD staff in a week.

For the Center City project, she described the housing market research conducted by her firm. She also described which portions of the study area were recommended for new development and which were to be for infill and rehabilitation efforts. She described the 3 plan layout options for new development that had been presented to the Center City Organized Revitalization Effort (C.O.R.E), a sponsor of this project. Commissioners had questions related to the cost of land acquisition, the feasibility of single family, detached housing in the area, the availability of funding for implementation, and the project's timeline. Commissioners also pointed to the need to act quickly with land purchases before prices would escalate.

The Hilltop and Midtown North studies were only briefly discussed. The summary sheets provided the findings to date. Meetings with the community groups in these areas and additional data collection were still continuing. The members were expecting more detailed reports of similar length to Center City for the Hilltop and Midtown North studies.

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The meeting was informally adjourned at 5:10 p.m.

State of Kansas        )  
Sedgwick County     ) ss

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

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Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)